Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 22 NOVEMBER 1910

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LEGISLATIVE COUNCIL.

TUESDAY, 22 NOVEMBER, 1910.

The PRESIDENT (Hon. Sir Arthur Morgan) took the chair at half past 3 o'clock.

PAPERS.

The following papers, laid on the table, were ordered to be printed:—

Report by Mr. Railway Surveyor Amos on certain transcontinental railway routes.

Regulations under the Navigation Act of 1876 in respect of the Government jetty at Auckland Point, Gladstone.

LAND BILL.

INVITATION TO SECRETARY FOR PUBLIC LANDS TO ADDRESS THE COUNCIL.

HON. A. H. BARLOW, in moving—

That, upon the second reading of the Bill to consolidate and amend the law relating to the occupation, leasing, and alienation of Crown land having been moved, the Honourable Digby Frank Denham, Secretary for Public Lands, be invited to be present on the floor of this Chamber, and to address the Council upon the principles and the provisions of the said Bill—

said: This is not a novelty, it seems, because the Commissioner for Income Tax was invited on one occasion to enlighten the Council. I believe that in one of the South African Legislatures, and in some of the Continental Legislatures, Ministers of the Crown sit in both Houses. Of course, I could give a dissertation on the Land Bill, but there are underlying matters that affect the question which can only be explained properly by the gentleman who has had the experience that the Hon. Mr. Denham has had. I hope this motion will be carried, and I am sure that when Mr. Denham addresses us to-morrow we shall receive a great deal of enlightenment on the internal reasons which have prompted certain changes in the Land Act, and which I certainly could not undertake to expound. I beg to move the motion standing in my name.

HON. A. J. THYNNE: This is, I think, unprecedented in our Queensland parliamentary history, but it is not without precedent in other Australian Parliaments. I remember some years ago being present in the Victorian Legislative Council upon the occasion of the introduction there of the Water Bill, and I heard the Minister for Water Supply, the Hon. Mr. Swinburne, address the members of the Council in explanation of the measure; and I heard him asked quite a number of questions by members of the Council on points on which they wished for further enlightenment. It occurred to me at the time that it would be a rather useful practice in cases of intricate legislation if the representatives of the Government in this Chamber sought the assistance of the special experience which the Minister who introduced that legislation would have. For that reason I have no objection to this proposition. I think it would be well if we had Mr. Denham here to give us a first-hand explanation on some points upon which we want information. (Hear, hear!) I do not know whether the leader of the Government in this Chamber has purposely arranged this so that Mr. Denham may bear

on his own shoulders the responsibility of some of the propositions of the measure. My impression—and I think the impression of other members too—is that there are certain points in reference to the Land Bill that require a good deal of that class of explanation; and perhaps I may be permitted to indicate one direction in which this Chamber will almost certainly require explanation, and that is on what ground or principle it is proposed by the Bill to alter the existing conditions upon which pastoral lessees of other Crown tenants hold land and impose conditions upon them that are not now on their shoulders at all. (Hear, hear!) I think this is a much more important question than the mere amount of money involved with the extent of selections or pastoral holdings. It is a matter to which I have no doubt Mr. Denham's attention has been called, and perhaps he will be prepared to give the justification on which the Government have asked Parliament to step in and, by force of legislation, take away existing rights and put new impositions upon Crown tenants. In that respect it will, perhaps, be an advantage to have the Secretary for Lands here, and for that reason I am not disposed to oppose the amendment.

After a pause,

HON. B. FAHEY: I waited hoping that some hon. member who had been in this House longer than I would address the Council on what I consider to be a unique motion. It appears to me that this motion tends to justify an opinion that is entertained and preached by a growing party outside—that this House is a superfluous adjunct to Parliament. In fact, it is giving a fillip to the idea that is growing abroad also that not only this House but another place is a source of superfluous national expense, and should be abolished. Why is this motion moved? Does the representative of the Government realise that it is not only a reflection upon himself and upon the intelligence of his learned colleague, but that, by inference, it is lowering the standard of the intelligence of every member of the Council in the public estimation by compelling us to submit to the exposition of a Bill by a Minister from another place? The fundamental duties of this House are to criticise and review, and, if necessary, alter the provisions of that Bill. If hon. members are under the impression that they cannot understand a Bill that comes in here, then they forfeit their right to be in this House. I have read every line of this Land Bill, sections and schedules, and I can truthfully say that a more intelligible and less ambiguous Land Bill has never been received in this Chamber from another place. It is, in my opinion, a monument to the intelligence of the officials of the Lands Department and to the Minister who supervises that department at present. In consequence of the simplicity of its phraseology and comprehensiveness of the Bill, this motion is superfluous. It is certainly unprecedented and illogical. I do not say this in a spirit of antagonism to the Secretary for Lands. Quite the reverse. In my estimation no member of the Cabinet, next to the Premier, has justified his position, not only in his present office but in other offices he has held, as manifestly as Mr. Denham has. For that reason I should be very sorry to do or say anything that might be construed as a discourtesy to the hon. gentleman. I only take up this attitude of opposition to the motion in defence of the intelligent character of this House.

HON. T. M. HALL: I am rather surprised at the hon. member who has just resumed his seat taking up the attitude he has done. There can be no question of this House subordinating its independent convictions to anything that the Secretary for Lands may say; but I submit that the Minister who has had the handling of so important a measure as this will be to the State of Queensland is the man who is best able to give a true interpretation of the intentions of the measure.

Hon. B. FAHEY: We do not want it.

HON. T. M. HALL: The hon. member may not want it, but there are hon. members who are only too pleased to receive the benefit of the knowledge of a man who has made a perfect study of the subject and of the men who are associated with him in the department over which he presides. I take it that, whilst this House is perfectly free to exercise its own individual opinion on all questions that come before it, it has certainly the right to get the fullest information and light on all subjects which it has to discuss. Every trace of light we can get on a measure of so much importance to the destinies of this State as the Land Bill should be welcomed, and every instrument through which it can be extended to this House should be received by this House with the greatest pleasure and favour. I am surprised that any member of this House should take up such an attitude as the hon. member who has just sat down. Though we may be very wise in our own conceit, we are at all events not too wise to learn from even less exclusive individuals than ourselves. In the Secretary for Lands we have a man who, since his introduction to public life in Queensland, has proved that he is intensely interested in the well-being of the State, and when he undertakes such a tremendous work as is involved in connection with this Land Bill, together with those who have the handling of the matter, after he has dealt with it in another place, it is only right that we should have the same enlightenment which they have had in that House. It is not a fair thing to say that the leader of this House is not able to introduce the measure, for he is quite competent; but it is not fair to expect him to deal with a measure that comes to this House in an abstract form, as against a man who has dealt with it from its inception and knows every twist and turn in the Bill, and the reason why certain things are proposed and why other things are altered; and for that reason this House should heartily support the motion of the leader of the House for the admission of the Minister into the Chamber for the purpose of explaining the provisions of the Land Bill.

* HON. A. NORTON: At first I felt some hesitation as to the action which ought to be taken in connection with this motion. We are not accustomed to having a Minister brought in here from another place in order to enlighten us upon a Bill which may be brought forward; but I am not prepared to say that we should not have done very much better if we had sometimes had a Minister from another place to explain measures. I am not speaking of the present, but of the past. There have been times when it would have been a distinct advantage to members of this House to have had someone to explain an important measure, with which a Minister in this Chamber, by reason of there being so many Bills coming before him which he had to take charge of, was not able to explain. However, this is a departure from the ordinary rules. The practice in both Houses

has been that, where an official was wanted, the House could invite someone representing the department with which he was connected to come here and give evidence as a witness. That was only done—as you, Sir, are aware—in another place in connection with important measures. The witness was brought into the Chamber, and every member had a right to question him as he chose. I hesitated in this case, because the leader of this House was himself in charge of the Lands Department for a number of years, and very ably carried out that work. I do not think it can be regarded as disparaging to him to assent to the proposition, and I believe it will be a relief to him to have the full explanation of all the details of the Bill taken off his shoulders. There is one thing that seems to me important. Are we to have an opportunity of questioning the Secretary for Lands just as we should a witness under ordinary circumstances?

Hon. A. H. BARLOW: I am sure Mr. Denham will answer any question submitted to him, but I do not think he will submit himself to a cross-examination—at least I would not.

HON. A. NORTON: As far as I am concerned, if I asked any question it would not be for the purpose of putting him in any difficulty at all, but to elicit information——

Hon. A. H. BARLOW: I am quite sure of that.

HON. A. NORTON: Because I am sure that what would be to my advantage would be for the advantage of others. I have not had anything to do with leases from the Crown myself, except as a trustee, for a long term of years, and the Bill will not affect my pocket in any way; but, as a trustee, I want to see that the interests of those whom I represent are properly safeguarded. We want to know, if the conditions under which leases have been granted are to be altered by law, what position we shall be in. I think, if Mr. Denham comes, it will lead to explanations which we would like to have, because we feel that, if any breach of contract is being committed, it will place us in a very unpleasant position. We should not only feel that there may be a breach of trust in regard to one particular thing, but in half a dozen instances, and, if they were allowed to pass at this time, others might be passed in Bills hereafter. Having on other occasions taken evidence of members of the Assembly, I think we are justified on such an important measure in listening to what the Minister who is most concerned in bringing forward the Bill has to say. So far as the measure itself is concerned, I have had to do with the land laws of the State for a great many years, and I do not hesitate to say that with all the Acts which have been passed the law has become so involved that there are very few lawyers who understand what it actually is, because they have to examine every Act to find out how one provision fits in with another in some other Act. I understand the Minister has had at his disposal the expert officers of the department—some of the best men in regard to their knowledge of the land laws that we have in the State, who would do nothing so far as I know—and I have had a great deal to do with them at different times—which they believed to be unfair, or which would prejudice the interests of any person. I only suggest that if, after hearing the Minister and having got the Bill into Committee, we then desire to examine the Under Secretary for Lands, or the Assistant Under Secretary, Mr. Shannon, or any other officer of that department, we should have the opportunity of doing so. The Bill itself is very long, and with all deference to my hon. friend, Mr. Fahey, I think it is a very involved one, and everyone will admit that it ought to be considered with the greatest possible care, because changes have been made which very few people can see the full drift of until they have studied them very carefully. I shall not oppose the motion.

HON. A. H. BARLOW: If I were a person overburdened with self-conceit, I should probably have resisted, but certainly never have proposed, a motion of this kind; but it is because I am so satisfied of the enormous and far-reaching character of the Land Bill that I think the Council should have the utmost assistance possible to qualify them to grasp the various provisions of the Bill. It is certainly a strange doctrine to me that this House should be abolished because it is seeking to obtain the best information for the exercise of its legislative functions. I cannot understand hon. members of this House playing to the party which desires to abolish this House, and I am quite certain when this House is abolished they will find out their mistake. I am certain we shall derive great benefit from Mr. Denham's assistance. The motion is largely made at my suggestion. I could go through the Bill with the Under Secretary, and bring up a version for the information of hon. members, but that version would not be half as good as the version of a man who has framed the Bill, and has done very little else but think about it for the last eight months.

Hon. B. FAHEY: Have we not got it already in *Hansard?*

HON. A. H. BARLOW: I think the House will not lose its own dignity, but will consult its own convenience, by carrying the motion. (Hear, hear!)

HON. A. J. THYNNE: I would like to supplement what I said, by referring to the practice in Victoria, as far as I remember it. At that time, the Minister invited to the Council gave a sort of second-reading speech. Then members asked direct questions of him bearing upon it. There was a certain amount of restraint, which was due to courtesy to a visitor to the House, in the manner and the extent to which questions were asked. (Hear, hear!) Anything in the shape of a cross-examination would, I think, be entirely out of place. (Hear, hear!) I am glad the hon. gentleman has given me the opportunity of mentioning this matter.

Question put and passed.

INVITATION TO MEMBER OF ASSEMBLY TO ADDRESS COUNCIL.

HON. A. H. BARLOW: I ask leave to move, without notice—

1. That the Legislative Assembly be requested to give leave to the Honourable Digby Frank Denham to attend the sittings of the Legislative Council on such day or days as shall be arranged between him and the Council, in order to explain the provisions of the Bill to consolidate and amend the law relating to the occupation, leasing, and alienation of Crown land.

2. That the foregoing resolution be forwarded to the Legislative Assembly, by message in the usual form.

I may say that I propose to intermit the Committee stage of the Local Authorities Bill, in order to enable Mr. Denham to be heard to-

morrow afternoon. After that, the Land Bill will be deferred for some little time, in order that his remarks may be digested.

The PRESIDENT: Is it the pleasure of the Council that the motion be submitted without notice?

HONOURABLE MEMBERS: Hear, hear!

Question put and passed.

LOCAL AUTHORITIES ACT AMENDMENT BILL.

COMMITTEE.

Clauses 1 to 3, both inclusive, put and passed.

HON. W. V. BROWN moved the insertion of the following new clause:—

The following provision is added to the first paragraph of section fourteen of the principal Act:—

Any person who under subsection five of section twenty-four of this Act is entitled to vote in respect of land whereof a corporation or joint stock company is the occupier or owner shall, so long as he remains so entitled, be qualified to be elected or appointed and to act as a member of the local authority of the area in which such land is situated. But not more than one director of any such company shall be so qualified.

It seemed rather a hardship that a person representing a corporation, who had the right to vote as a representative of the corporation, should not be eligible for election as a member of a local [4 p.m.] authority. He knew several instances in which there was only one person in Australia representing the owners of properties of very considerable value and on which very large rates were paid. A man who owned a property worth £5 was entitled to a seat on a local authority, but the representative of the owners of properties worth £100,000 were not given that right.

The ATTORNEY-GENERAL: There seemed to be no reason why a director of a company, who was entitled to vote, should be debarred from being elected as a member of a local authority, and therefore he had no objection to the amendment.

New clause put and passed.

Clauses 4, 5, and 6 put and passed.

On clause 7—"Amendments of section 24"—

HON. E. J. STEVENS moved the omission of subsection (2), as follows:—

(2.) After subsection five of the said section, the following subsection is inserted:—

[5A.] Provided always that the number of votes which may be given in respect of all land held by joint occupiers or joint owners respectively under subsection four hereof, or by a corporation or joint stock company respectively under subsection five hereof, shall not in any case exceed the number of votes which under subsection one hereof could be given by an individual person if he were the owner or occupier of the same land; and in any such case, if only one vote could be so given, the person entitled to give such vote shall be the person whose name stands first in order in the rate-book or valuation and return, as the case may be.

The subclause provided that no property, however large, should give its owners the right to register more than three votes in respect of it, and a still more important point was that, although a person owning one piece of property in one ward might have three votes, another person holding property of equal value in different wards would have no more than three votes. Under the principal Act joint owners of a property of a value of £1,000 or over could record nine votes, distributed among three of the joint owners, and that was much fairer than the proposition contained in the clause under consideration. The clause would only allow a man to vote in respect of one property, although he might own one or more properties in every ward and might pay hundreds of pounds in rates. It was fairer that, if a man had property in four wards, he should be allowed to vote in respect of those properties in each ward, as he had just as much interest in one ward as he had in another, and he should be put on the same plane as those who had only one property in any of those wards. His amendment would leave the voting as it was at present. He would like to compliment the Attorney-General for his forethought in having distributed copies of the Local Authorities Act, as they would be very useful.

The ATTORNEY-GENERAL regretted that he could not accept the amendment. The whole qustion for the Council to consider was whether the principle of limiting the property-owner to three votes was a sound one. If the principle was a sound one, they could not differentiate in favour of joint stock companies. The votes were given in respect of property, and it was not fair that the question of whether a particular property was entitled to nine or three votes should depend upon whether it belonged to one individual or to a joint stock company. Such a differentiation could not be defended on logical grounds.

HON. A. J. THYNNE thought the Attorney-General had missed an important point to which the Hon. Mr. Stevens had directed special attention, and that was that, according to the wording of the clause, no matter what rates a man paid, he was only to be entitled to three votes quite irrespective of the number of wards in which his property was situated. How was it to be decided in which ward or in which division he should have those votes? Why should he not be entitled to votes in whatever wards or divisions he paid rates, the same as any other ratepayer?

The ATTORNEY-GENERAL: There was no objection to amending the clause if it would make it clear that the intention was to place joint stock companies on exactly the same plane as individuals.

* HON. M. JENSEN: The clause would be improved by omitting the words "in respect of all land held," as it was those words that gave rise to ambiguity. He sincerely hoped the amendment would not be carried, because there was no justice in giving to a corporation more votes than to individuals. There were many limited liability companies in which there were three partners, each of whom, before incorporation, would be entitled to one vote, and he could not see why the number should be increased to nine simply because they converted their business into a joint stock company. It appeared to him that the Hon. Mr. Stevens was rather contemplating big concerns with many shareholders, but there were many limited liability companies in Brisbane that were really one-man concerns.

Hon. A. J. THYNNE: But they would not be paying more rates than would give them the ordinary number of votes.

HON. T. M. HALL thought there was some difficulty in comprehending the real effect

of the clause, and he would like to have the Attorney-General's opinion on the point. Supposing he owned property in four of the city wards, did the clause mean that he would not be entitled to vote in all of those wards?

The ATTORNEY-GENERAL: It does not mean that.

Hon. A. J. CARTER: Subsection (3) of section 24 of the principal Act provides for that.

HON. T. M. HALL: If that was so, the effect of this clause would be that any person would be confined strictly to one vote. In regard to the other point which had been raised by the Hon. Mr. Stevens, a distinction between a company and an individual should not be drawn in matters of this kind. Whilst he held very strongly that the person who paid the highest rates should have the right to call the tune, he still held that a corporation had no better right to a vote than an individual, and, if an individual was entitled to three votes, so should a corporation be, and no more. Provided that the interpretation he had given was correct, that a person was entitled to have a vote in every ward, if he was properly qualified for that ward, he could support the clause as it stood.

The ATTORNEY-GENERAL: On looking into the point raised by the Hon. Mr. Stevens, he did not see that there was the slightest difficulty about it. Subsection (3) of section 24 of the principal Act provided—

> When an area is divided, every person entitled to vote shall be so entitled for every division wherein any rateable land in respect of which he is so entitled is situated.

Hon. A. J. THYNNE: The words in the clause, "in respect of all land held," modify it.

The ATTORNEY-GENERAL: He did not think they modified it. It gave the maximum number of votes that could be exercised. At present there was this differentiation between a joint stock company and an individual—that a joint stock company had got three times the voting power an individual had, because the company could register three persons in respect of a particular property.

Hon. A. J. THYNNE: So can joint owners at the present time—there is no difference between them.

The ATTORNEY-GENERAL was not dealing with joint owners. However, the three joint owners were in the same position as a company, and the distinction should be abolished as far as those three joint owners were concerned, just as much as in the case of a company, and the object of the clause was to abolish it. It was a differentiation which it was impossible to defend on any logical grounds.

HON. A. J. THYNNE thought there were many logical grounds on which the differentiation might be justified. Why should a person who paid an amount in rates in respect of his third interest sufficient to qualify him to vote, not have the right to vote as if he owned the property by himself.

The ATTORNEY-GENERAL: Very well; do away with the limitation.

HON. A. J. THYNNE: If there were three owners of a piece of land which paid rates sufficient to give each of those ratepayers their full qualification to vote, why should they not have it?

The ATTORNEY-GENERAL: Because it is the property that carries the vote, and not the individuals.

[*Hon. T. M. Hall.*

HON. A. J. THYNNE: It was the amount of rating which carried the vote, and, if individuals were jointly interested in the ownership of the property, why should there be a distinction drawn against them because they happened to be joint owners instead of single owners of the property?

The ATTORNEY-GENERAL: Because the limitation applies to the clause.

HON. A. J. THYNNE: The limitation applies to the rates paid by the owner, not the valuation, and where people contributed a certain amount of money, he saw no reason why, if there were three votes for that amount of rates, if they each paid a third of that sum, they should be deprived.

The ATTORNEY-GENERAL: It is the principle of the Act.

HON. A. J. THYNNE: It might be the principle of the Act, but it was not a principle of fairness, nor one which could be justified.

HON. T. M. HALL: The contention raised by the Hon. Mr. Thynne was right only as applied to a property which had a qualification in respect of the ratepaying value: but suppose that in Toowong there were three officers of a banking institution or building society who would have three votes for a 16-perch allotment by reason of the fact that they were the three persons who were qualified to vote under the old Act—there would be three separate persons with one vote each on a 16-perch allotment, with a minimum valuation of £30, while, if a private individual owned that allotment, he would only have one vote. While it might be right enough to grant votes to the full amount of the rates paid, it was not right to allow officers of a company three votes in a case like that. If that were eliminated from the question, it could be very easily handled.

HON. A. J. THYNNE: Under the clause, where the valuation was less than £500, there was only one vote; less than £1,000, two votes; and where it exceeded £1,000, three votes. Subsection (4) of section 24 of the principal Act provided—

> When more persons than one are occupiers or owners of the same rateable land, each of such persons shall be deemed to be the occupier or owner of land of a value equal to that of the whole of such land divided by the number of such occupiers or owners not exceeding three.

The value was to be divided by three to get the quota. A 16-perch allotment would not give three votes to any one.

HON. E. J. STEVENS said the Attorney-General was hardly correct in the position he took up. The limitation of the votes was illogical. If the matter were carried to a logical termination, a value of over £2,000 would command six votes, over £3,000 nine votes, and so on. It was never contended that large owners of property should have an overwhelming number of votes, but only a fair proportion. It had been said that some persons had nine votes in connection with a piece of land, while other people had only three. At first glance it seemed unfair, but they should consider the sacrifices made by the larger owners.

HON. B. FAHEY: The principle originally introduced in the Act was designed to prevent the wealthy landowner swamping the small owner and taking possession of the government of local authorities. It was only reasonable that the small man should be protected. The limitation in the clause was very reasonable.

HON. W. F. TAYLOR understood the Hon. Mr. Hall to say that a person was entitled to three votes for a piece of land over £1,000. If three persons owned that piece of land, would each person be entitled to three votes?

The ATTORNEY-GENERAL: This Bill is providing against that. Under the old Act they had three votes each—that is nine votes; but under the Bill they will only have three votes.

HON. W. F. TAYLOR thought the proposal in the Bill was preferable.

Amendment (*Mr. E. J. Stevens's*) put and negatived.

Clause passed as printed.

Clauses 7 to 17, both inclusive, put and passed.

On clause 18—"Wharf at end of road"—

HON. J. COWLISHAW asked what necessity there was for the clause? If he was not mistaken, local authorities must have that power now, because they were [4.30 p.m.] already granting permits to persons to build wharves where roads abutted on a river.

The ATTORNEY-GENERAL: The local authorities might have the power to do that now, but there was no provision at present whereby they were required first to obtain the consent of the owners of the lands on both sides of the road having a frontage to the road and also a frontage to the river.

HON. J. COWLISHAW: But they had already done it. In the case of Boundary street the City Council had given such permission without first consulting the gas company, who owned the property on one side of the street.

The ATTORNEY-GENERAL: They could do it now without consulting the owners of the adjoining lands, and the object of the clause was to make it necessary to get that consent.

Clause put and passed.

On clause 19—"Power to erect shops, etc., and let same"—

HON. J COWLISHAW: The same remark applied to this clause. Local authorities already exercised this power. They were putting up buildings and letting them, so what necessity was there for the clause?

HON. T. M. HALL wanted to know whether the words "business purposes" meant that land could not be used for the purpose of erecting private residences.

The ATTORNEY-GENERAL: The construction that he put on the words "business purposes" was that they would exclude residential purposes. The object of the clause was to enable local authorities to put properties which were in their hands to some profitable use.

Hon. J. COWLISHAW: They have already been doing that. Are we to understand that they have been doing it without legal authority?

The ATTORNEY-GENERAL: Yes.

HON. A. J. THYNNE: There was a very strong case over in South Brisbane. The municipality of South Brisbane was encumbered with a charge of something like £90,000 or £100,000 on account of properties that were vested upon trust in the city of Brisbane before the formation of the borough of South Brisbane. The land, which was situated in South Brisbane, was held for markets and other purposes. They were not a commercial asset at all, but in the adjustment of accounts they were handed over to the South Brisbane Council as an asset. It was only fair that the South Brisbane Council should be able to make some commercial use of any portions of those lands that were not actually required for the purposes for which they were originally granted, in order that they might pay off some part of the big debt which the property represented.

HON. T. M. HALL: If city local authorities were to be empowered to erect buildings for business purposes, suburban and country local authorities should have equal power in respect of making use of lands for residential purposes. He would like to know if the Attorney-General was prepared to accept an amendment in that direction.

The ATTORNEY-GENERAL: Yes.

HON. T. M. HALL moved the insertion of the words "or residential" after the word "business."

Amendment agreed to.

Clause, as amended, put and passed.

Clauses 20 and 21 put and passed.

On clause 22—"Alignment of roads"—

The ATTORNEY-GENERAL moved the insertion of the following at the beginning of the clause:—

(1.) In subsection one of section seventy-three of the principal Act, the words "carriage ways and footways" are repealed, and the word "roads" is inserted in lieu thereof.

In the first paragraph of subsection five of the said section, the words "a licensed" are repealed, and the words "an authorised" are inserted in lieu thereof. Also, the words "A copy of every such notification shall be served upon the owner and the occupier of any structure with respect to which any encroachment as aforesaid is alleged" are repealed. In the second paragraph of the said subsection, the words "and the situation and width of the carriage ways and footways thereof" are repealed.

In subsection six of the said section, the words "the fact shall be specially declared and the extent of such encroachment shall be delineated and described" are repealed, and the words "the owner or occupier shall upon application be entitled to receive a diagram showing the extent of such encroachment" are inserted in lieu thereof.

The following provision is added to subsection seven of the said section:—in a sum which shall bear the same proportion to the value of the whole of the land as the area of the part excised by the alignment bears to the area of the whole of the land: Provided that no compensation shall be payable where the area of the land is not reduced by the alignment to a lesser area than is conveyed by the instrument of title to the land.

In subsection eight of the said section, the words "and described" and the words "and description" are repealed; also, the words "and the situation and width of the carriage ways and footways" are repealed, and the words "and the width of the roads" are inserted in lieu thereof.

The clause as it stood amended section 74 of the principal Act, but it had been found necessary to amend section 73 also by the amendment he had just moved. The first paragraph eliminated the words "carriage ways and footways" in subsection (1) of that section. The section provided that the width of roads should be fixed, but there was no necessity to fix the width of the carriage ways and foot ways, which only increased the cost and served no useful purpose. The second paragraph dealt with subsection (5) of section 73. It rendered unnecessary the service of a copy of the notification upon the owner, which that subsection required. It was considered that the notification in the *Gazette* and newspapers

was quite sufficient. The next paragraph proposed to do away with the necessity of making a diagram or map showing the extent of an encroachment, but it provided for the necessary information being given to the owner of the land so encroached upon. Generally such encroachments were a matter of a few inches, and the compensation was now to be settled on the basis that it should bear the same ratio to the value of the whole of the land as the area of the encroachment bore to the total area of the allotment. The last paragraph made consequential amendments in subsection (8) of section 73. The amendment had been approved of by a surveyor who had had a great deal of experience in connection with alignment surveys, and it had also been approved by the Home Department.

Amendment agreed to.

HON. G. W. GRAY: His experience in the city of Brisbane was that, if you employed three surveyors, they all differed with regard to the alignment. The old surveyors were very uncertain, and it would mean delaying the erection of buildings for an indefinite period if they were to be compelled to wait for the defining of alignments in the city of Brisbane.

The ATTORNEY-GENERAL: The hon. member had mentioned the matter before, and he had made inquiries, and he had been informed by Mr. Gall, who had a great deal of experience in connection with getting alignment surveys, that instructions were immediately given to the Survey Department, and there was no delay except in rare cases when something unforeseen occurred, when it was unavoidable. It was in cities, above all places, that such a provision was necessary.

HON. A. J. THYNNE: The discussion carried him back to the days when the question used to be discussed by the late Sir A. C. Gregory. The subject was one upon which that gentleman was specially competent to express an opinion. As far as he (Mr. Thynne) recollected Sir A. C. Gregory's view was that the data or starting points of the surveys in the city of Brisbane had been lost, and there was no information available as to where they started from, so that there was very great difficulty in deciding where a section or an allotment commenced and where it ended. He did not know whether the present proposition would overcome the difficulty or not. In some cases the value of a property might be seriously affected by the absence of information of this kind. No doubt the department was doing its best to solve the difficulty, but it was a great pity that the original surveys and the original starting points had not been more carefully preserved. He trusted that in these modern times they would take more care in preserving the records of surveys and ensuring the correctness of titles. It was a very serious matter, and he hoped the officers of the Government were giving it attention.

HON. G. W. GRAY informed the Attorney-General that there was one city transaction in which he was concerned, in which one of the principal architects of the city took the alignment twice over before he started. One day a question was raised, and a lawsuit was commenced over it, and they compromised for £300. This was after the building had been erected. This would apply to other parts of the city of Brisbane. In another case, where he was about to build, he had the land resurveyed and pegged out, and he must say that in this instance it was not long before he got it confirmed by the council.

[*Hon. T. O'Sullivan.*

The ATTORNEY-GENERAL: The Minister gave the certificate.

HON. G. W. GRAY: They had to lodge the plan with the council now.

The ATTORNEY-GENERAL: Yes; the city council have to approve of it.

HON. G. W. GRAY: In this last instance, they were not long in getting the alignment confirmed, but that was quite an exception. The alignment should be defined once and for all; but he was afraid there would be difficulty in obtaining confirmation of the alignments of surveyors, for the reason that they had really no starting point. He was not going to oppose the clause.

HON. W. F. TAYLOR had heard a lot of arguments from persons able to judge, and they were all in favour of the new clause. He did not believe there would be any serious opposition to passing the clause.

New subclause put and passed.

Clause, as amended, put and passed.

On clause 23—"Amendments of section 76"—

The ATTORNEY-GENERAL said he had two amendments on this clause. As pointed out by the Hon. Mr. Thynne on the second reading, clause [76A], which was inserted in subclause (2), was too wide in its present form. It cast the obligation on a surveyor of depositing with the local authority the plan which he might make for a client, and which might never reach the Real Property Office at all. The object of the amendment he was about to move, and the following amendment, was to make the clause only apply to cases where the plan had to be sent to the Real Property Office, and to be used for registration of the document in the Registry of Titles. He moved the insertion after "land," on line 54, of "for the purpose of the transfer of or other dealing with the land so surveyed."

HON. A. J. THYNNE said that the amendment to a certain extent removed his objection, but why put the duty on the surveyor? Why was it not put on the owner of the property, who registered his plan in the Real Property Office, to supply a copy to the municipal council? That would have been the correct course. Why should the unfortunate surveyor be obliged to do this work? Possibly a survey might be made, and the plan never go into the Real Property Office.

Hon. T. M. HALL: He would charge the owner for it.

HON. A. J. THYNNE: Yes; but a surveyor might make a plan, and it might never be carried out. The surveyor's copy would go into the local authority's office, and the owner might never register the plan; the consequence would be that, if the local authority accepted and acted upon the surveyor's plan, then they would be very much misled as to what the position was. They should impose upon the owner of the property who subdivided land and lodged a plan for the purpose of dedicating roads the direct responsibility of supplying the local authority with a plan, and upon him should be cast the penalty for neglecting to do it. It should not be put on the unfortunate surveyor, who was only earning wages.

* HON. M. JENSEN said it would be a very rare case that a plan was drawn up and not acted upon.

Hon. A. J. THYNNE: I know several cases.

HON. M. JENSEN: Very rarely would an owner pay for a plan of subdivision and not

make use of it. The surveyor was an expert, and it would give him no trouble whatever. He would be much more likely to comply with the law than the owner, who might be ignorant of the requirements of the law. Consequently the hardship imposed on the surveyor was comparatively nothing.

The ATTORNEY-GENERAL took the same view as the hon. member who had just sat down, and, as far as the plan not being required was concerned, every plan used in the Real Property Office had to be certified to by the surveyor, and the surveyor would see that a copy was sent to the local authority's office. If he had to make a plan for the Real Property Office, the plan would be required for the local authority office, and he could protect himself by charging the owner.

Amendment agreed to.

The ATTORNEY-GENERAL: As a consequential amendment, he moved the insertion, on line 57, after "him," of "for registration with a registrar of titles."

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

Clause 24 passed as printed.

On clause 25—in subclause (4)—"Amendment of section 123"—

The ATTORNEY-GENERAL moved the insertion, on line 14, after the word "clerk" of the words "or other officer having general or special authority in that behalf from the chairman." This was a verbal amendment inserted at the request of the Brisbane City Council.

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

On clause 26—"Omnibus services"—

HON. E. J. STEVENS moved the omision of the following subclause:—

[145A.] (1.) The local authority may construct, purchase, contract for the use of, or otherwise provide omnibuses, and may carry on, maintain, manage, and work omnibus services within the area, and may charge, collect, and take the prescribed fares and charges for the conveyance of passengers and parcels by means of such vehicles.

The next subclause provided that a local authority might, out of the local fund, give a subsidy. The object of his amendment was to prevent local authorities from having power to invest in omnibus services of their own. He was dealing with 'buses drawn by horses. There was no knowing how far they might go into the matter, and what loss might be sustained. With regard to subsidising a company, that was a different thing altogether. They knew that the limit of liability was £200 per annum, and it was a good thing that they should be allowed to do that. It was not an easy matter for a local authority to obtain money for a railway, or even a tramway, as they knew from experience in some of the suburbs to-day. Under subclause (2) they would be able to subsidise a 'bus company to the extent of £200 a year, which would open up the suburbs and increase the value of the land. Subsequently he would move a further amendment to omit subclause (4).

HON. W. V. BROWN: With the Hon. Mr. Stevens, he thought it would be a great mistake to authorise local authorities to purchase omnibuses of their own. At the same time he thought it was desirable to subsidise motor 'buses. He would support the amendment.

* HON. M. JENSEN: The local authorities in all probability would do the work much cheaper than any private company. A private company would be after dividends, but a local authority would not be after dividends. It was proved by experience that anybody would sooner lend money to a local authority than a private company. A certain Australian company wanted £400,000 to build a railway, and it cost it £56,000 to get the £400,000. The records in the daily papers some time back showed that

[5 p.m.] the debentures of a private company were quoted at 87 for a very long time. His point was that a local authority, because it was not after profits, would do the work much cheaper than any private company. The Hon. Mr. Stevens mentioned a good point on the second reading, when speaking of subsidising a company. That would be an advantage, as it would enable people to get out to cheap land, and they would not be crowded together so much. The local authority would run its omnibuses with that object, not having profits in view, whereas the object of a private company would be to get as much profit as possible. From another point of view entirely unconnected with local government, he was strongly in favour of the clause as it stood. He supposed local authorities would use motor vehicles, in accordance with the tendency of the times, and the more vehicles of that kind were used, the less cruelty to animals there would be. The 'bus horses in Brisbane were a sorry spectacle, particularly those that traversed George street, and certainly, if local authorities engaged in the work, they would provide decent horses if they did not use motor 'buses.

HON. A. J. THYNNE thought the clause was not worth talking about, because local authorities were only to have power to maintain omnibus services within their own areas. What would be the use of a service that was restricted to the city of Brisbane?

Hon. C. F. MARKS: Wait until we get a Greater Brisbane.

HON. A. J. THYNNE: It would be time enough to discuss the question when a Bill to constitute a Greater Brisbane was before the Council. Take the case of a suburban local authority like the Toowong Shire Council. What would be the good of an omnibus service that would have to begin at one boundary of Toowong and stop at another? The clause was not worth defending. If it were deleted it would remove a blot from the Bill.

HON. A. H. PARNELL would be very sorry to see the clause interfered with, because he thought the local authorities were well able to look after themselves. They were given unlimited powers to erect shops and residences, and they had power to construct tramways.

Hon. A. J. THYNNE: What about the Rockhampton tramways?

HON. A. H. PARNELL: The Rockhampton trams were working very well indeed.

Hon. A. J. THYNNE: They were not for a long time.

HON. A. H. PARNELL: They had a good deal to put up with, but they were working very well now. There were other local authorities outside Brisbane, and 'buses would be handy to run as feeders to trams. When local authorities had to spend money, it was well spent, and they got full value.

HON. A. J. THYNNE: A local authority had no right to use the ratepayers' money to enter into competition with private enterprise. It would be a great mistake to allow

them to do so. It was a principle that had been established in a good many parts of the world.

HON. P. MURPHY: If the expenditure could be limited to a reasonable amount, it would be all right; but the clause proposed to put too great a power into the hands of the local authorities to use the ratepayers' money for purposes quite outside the ordinary work of local government. In the case of a subsidy, the expenditure was limited to £200; but there was nothing in the clause to prevent a local authority entering into an undertaking involving an expenditure of £20,000 or £50,000. If the question had to be submitted to the ratepayers in the first place, it would not be open to objection. If the local authority proposed to construct a tramway, it had to submit the question to the ratepayers before it could borrow the money; and, if the ratepayers decided against it, the whole thing fell through.

The ATTORNEY-GENERAL: At first he thought there was something in the point raised by the Hon. Mr. Thynne as to the clause restricting a service to the area of the local authority concerned, but his attention had been directed to the fact that later on in the clause power was given to form a joint board to control such services. He was rather surprised at the desire on the part of some hon. members to restrict local authorities in the way proposed by the amendment. The tendency nowadays was to extend the powers of local authorities in the direction of enabling them to construct railways and tramways and public conveniences of that kind.

Hon. A. J. THYNNE: Socialism.

The ATTORNEY-GENERAL: The hon. member might call it socialism or whatever he pleased, but there was a tendency to give local authorities control of undertakings of that kind in many parts of the world besides Australia. The city of Glasgow was one of the most up-to-date instances of a local authority which conducted such enterprises. In Queensland they had the Beaudesert tramway, which was constructed with money borrowed by the local authority.

Hon. E. J. STEVENS: The matter had to be submitted to the ratepayers.

Hon. W. V. BROWN: That was not an omnibus service. We do not object to that.

The ATTORNEY-GENERAL: A tramway was very much more important than an omnibus service. Hon. members were straining at a gnat and swallowing a camel. They did not object to a local authority building a tramway, which might cost £50,000, but they objected to a much cheaper omnibus service. The Ayr tramway was another instance of an important work which had been undertaken by local authorities, and there were others of the same kind, which were carried out with conspicuous success. It did not follow that the power would be exercised by every local authority. It would only be exercised in rare instances; but in many places outside Brisbane it would be of very great importance to have the power to maintain a service of that kind.

Hon. W. V. BROWN: They can subsidise it.

The ATTORNEY-GENERAL: The power to subsidise a service was not sufficient. He agreed with the Hon. Mr. Murphy that the restriction of £200 on the subsidy was rather a mistake, but that was the form in which the Bill came to them. As to the question of submitting the matter to a vote of the ratepayers, if the initiation of an omnibus service necessitated borrowing money, they would have to comply with the conditions laid down in the principal Act, and submit the question to the ratepayers.

Hon. J. COWLISHAW: The clause does not say so.

The ATTORNEY-GENERAL: There was no necessity to repeat the provision requiring the taking of a poll in that clause. There was no other way in which the local authority could set about the work. It would be very unwise to take away the power proposed to be given by the clause. It would not be often exercised, but it was better to have it there; and, if advantage was taken of it by local authorities, and the experiment was not a success, it would be very easy to take away the power.

Hon. J. COWLISHAW: It will be too late then.

HON. W. F. TAYLOR: If local authorities could run ferries, he could not see why they should not have power to run 'buses. He did not see why local authorities should not be able to compete with private enterprise if the inhabitants were not properly served by private enterprise. Why should a private individual who ran a line of 'buses be protected from competition? A little competition would do him good. It would perhaps induce him to get better horses, vehicles, and drivers. It would be a mistake to do away with the clause. It was a very small matter, after all. He did not see that it could do any harm, and it might do a lot of good.

HON. E. J. STEVENS: In the event of a local authority running 'buses in competition with a private individual, the latter would be crushed, as he would have to find his own money, whereas the local authority would be playing with the ratepayers' money. He did not see how a local authority was likely to give a better service than a private individual. The private individual would have to make a living, and he would use his best endeavours to do so, and to prevent the loss of his money. On the other hand, interested parties might obtain seats on a local authority, and use all their influence to get that body to run a line of 'buses to improve the value of their property. They knew there was plenty of log-rolling in connection with local government, just as there was in connection with politics. The Hon. Dr. Taylor spoke of ferries being controlled by local authorities, but ferries were an absolute necessity across a river, and they were usually started by a private individual; but when the traffic became important, the local authorities were forced to take them over, and provide a better service. There was, therefore, no weight in that argument. His contention was that there was a risk of local authorities crushing private enterprise, and that there would be a temptation to indulge in log-rolling of a very improper sort. He would press the amendment to a division. If it was defeated, there was no use in moving his other amendments, as they were consequential upon the one now under consideration.

HON. T. M. HALL: The arguments so far used on the other side seemed to be directed chiefly to the consideration of local authorities and their responsibilities; but he could assure hon. members that the local authorities

around Brisbane were quite capable of taking care of their own affairs, and the ratepayers took all sorts of care that no large undertakings were entered into without their having a voice in the matter.

Hon. P. MURPHY: They might have no standing under the Bill.

HON. T. M. HALL: It was provided in the principal Act that, if a large sum of money was to be raised, a certain number of ratepayers might present a petition, and a poll would have to be taken on the question.

Hon. W. V. BROWN: Only if they have to borrow money.

HON. T. M. HALL: Precisely. The conditions under which any undertaking of the kind could be proceeded with were so set out that it would be impossible for any large enterprise to be contemplated without the ratepayers being taken into consideration. Provision was made here for circumstances which might arise. They had given local authorities certain other powers and liberties, a great many of which were not exercised. They were giving them a right here to exercise discretion, which would be carefully seen to by the ratepayers themselves. It had been frequently held out that this would interfere with private enterprise, but there were instances where private enterprise was diametrically opposed to the interests of the community. The people who had to pay the piper in the shape of rates had a perfect right to choose the means of locomotion they required in a district. There were places within a very short distance of Brisbane which might be opened up by motor 'buses by the local authority, where land at the present time was of little value. These were purely matters of commercial enterprise. He deprecated any attempt to restrict local government. Hon. members who knew anything about local government knew that members were very carefully supervised by the ratepayers, and that the members were men of character.

Hon. P. MURPHY: You do not object to the ratepayers having a say?

HON. T. M. HALL: He did not object to the ratepayers having a say. They had the right to exercise their authority in these cases.

HON. G. W. GRAY: This was experimental legislation which was being introduced by the Bill. He did not know whether it was on the recommendation of the local authorities.

The ATTORNEY-GENERAL: Some of the local authorities want this power.

HON. G. W. GRAY: The hon. gentleman had cited Glasgow as an instance in favour of this. He understood that Glasgow was a city where they had no rates at all. They had such a large revenue that they had not to levy rates.

The ATTORNEY-GENERAL: You will have to vote with us after this.

HON. G. W. GRAY: No. He drew the line at local authorities which were levying very heavy rates applying portion of it to starting omnibuses in competition with private enterprise. If there was an opening for an omnibus line, the capital would be forthcoming. He would support the amendment, as he thought it was a mistake to introduce a clause of this sort.

HON. B. FAHEY did not think that this was experimental legislation, but an extension of a very sound principle. The profits from the municipal undertakings in Glasgow saved the rates there to householders. The same system was also in existence in Liverpool and other places in England. The tendency of hon. members who had spoken was to deal with the clause from the standpoint of Brisbane, but Brisbane was not Queensland. There were places in Queensland where, if this power were held by local authorities, the ratepayers would not have been imposed upon as much as they had been. It did not follow that, if this power was given, the local authorities were going to enter into competition with existing omnibus services. If the ratepayers thought they would be better served by establishing a line of omnibuses, why should they not do so? He did not consider that a power of this kind would be exercised by the local authorities in Brisbane, but there were many other places where it would be availed of with advantage and profit to the ratepayers

HON. E. J. STEVENS: The argument of the Hon. Mr. Hall was wrapped round with suggestions that it would be impossible for the local authorities to use money in this way or in any other, but they knew that if a local authority wished to borrow money they did not consult the people—they had the power to obtain overdrafts. How much money could the municipal council of Brisbane borrow without consulting the ratepayers? Something like £50,000. They were told that the local authorities were watched very closely by the ratepayers; yet complaints were made in the public Press of parts of districts being neglected and other parts being favoured. Their experience had been that when there was a necessity someone was sure to run a 'bus service.

Hon. A. HINCHCLIFFE: I do not think that that is borne out by facts.

HON. E. J. STEVENS: It is borne out by facts. He knew that in some instances the 'buses did not pay, and they had been taken off the road. He was afraid that it would open a channel for abuses if the clause was allowed to pass in its present form.

HON. R. H. SMITH thought this was a power which the local authorities should possess. Every movement was liable to abuse, but they must trust their local authorities to use common sense. If the power was granted, it would doubtless be exercised with discretion and caution. He had no objection to the clause, but, on the contrary, highly approved of it.

HON. P. MURPHY: If this went to a division he would feel bound to vote for the amendment. He was not opposed to the principle of local authorities running lines of omnibuses or motor 'buses or tramways, but only to their having authority to do so without asking the consent of the ratepayers. If the Minister would amend the clause in that direction he would vote for it, otherwise he would vote for the amendment. Something like that was in the mind of the framers of the Bill, because they had limited the amount of subsidy to £200 a year.

HON. A. H. PARNELL asked if twenty ratepayers would not have the right, as they had at present, of objecting to a loan and demanding a poll.

The ATTORNEY-GENERAL: The Hon. Mr. Murphy was not opposed to the principle, but objected to a large expenditure without the consent of the ratepayers, but the principal Act provided for that, and no amendment was necessary. In any large scheme it would be necessary to borrow money. Section 281 of the principal Act gave power to overdraw, but the power was very limited. It stated—

> For temporary accommodation a local authority may obtain advances from any bank by way of overdraft of the current account: Provided that no such overdraft or accommodation shall at any time, or under any circumstances, exceed the ordinary revenue of the local authority in the year then past.

Under that limitation no local authority could institute any service worth considering without going before the ratepayers and borrowing.

Mr. MURPHY: Plenty of these divisional boards are in funds.

The ATTORNEY-GENERAL: If a local authority were in funds, and could do it without an overdraft, it was a fair thing to give them the power. As had been pointed out, the ratepayers constantly watched [5.30 p.m.] the members of the local authorities, and the safeguard was that they would be responsible to the ratepayers for any mistake, and could be changed for somebody who would act more in accordance with the views of the ratepayers. The safeguard that the Hon. Mr. Murphy wanted was already in the principal Act, and there was no necessity to duplicate it in that clause.

HON. E. J. STEVENS: From what the Attorney-General had said, one would think that the rates collected by local authorities were mere trifling amounts. In some cases they ran into several thousands of pounds, and yet they could get an overdraft from a bank for that amount without consulting the ratepayers.

* HON. A. NORTON felt there was too great a disposition to give local authorities power to compete with private enterprise. As a rule, he objected to any provision enabling that to be done. It was not fair that men should not be able to invest their money profitably because a local authority might come in and destroy their business. One thing that rather inclined him to favour the clause was that some of the omnibuses running in Brisbane at the present time were a disgrace to the city. The horses were poor broken-down brutes that could hardly move. Why they were not objected to by those who had the granting of the licenses was a thing he did not understand. Licenses were granted to people to carry heavy loads in heavy vehicles with only two unfortunate horses which could hardly drag the empty 'buses. Sometimes in the morning two lame, spavined horses that were not fit to do any work were to be seen drawing 'busloads heavy enough for four horses.

Hon. R. H. SMITH: The local authorities would not permit such a thing as that.

HON. A. NORTON was rather inclined to support the clause, because the local authorities might prevent such abominable cruelty to horses.

Hon. P. MURPHY: On the railways sometimes people are carried in trucks that are intended for live stock.

HON. A. NORTON did not object so much to that, but he did object to the cruel treatment of horses, that were flogged to do work which they were not fit to do. Private enterprise of that kind ought to be squelched altogether.

Question—That the words proposed to be omitted (*Mr. Stevens's amendment*) stand part of the clause—put; and the Committee divided:—

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,, T. C. Beirne	,, T. O'Sullivan
,, H. L. Groom	,, A. H. Parnell
,, T. M Hall	,, R. H. Smith
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Teller: Hon. M. Jensen.

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,, W. V. Brown	,, A. Norton
,, F. Clewett	,, E. J. Stevens
,, G. W. Gray	,, A. J. Thynne
,, C. F. Marks	

Teller: Hon. W. V. Brown.

Resolved in the affirmative.

Clause passed as printed.

On clause 27—"Alien labour on tramways, etc."—

HON. J. COWLISHAW said that, although the marginal note read "Alien labour on tramways, etc.," there was no mention of alien labour in the clause. The clause might prevent a British labourer getting employment if he were unable to read and write. He did not think that was the intention at all.

HON. A. J. THYNNE supposed the idea was that a workman might take a spell while he was being subjected to the dictation test. (Laughter.)

The ATTORNEY-GENERAL: Any clause in a Bill dealing with the employment of aliens had to be very carefully worded. Hon. members might remember that a Bill which was passed a few years ago differentiating against Asiatic aliens so as to exclude Japanese was refused the Royal assent. The intention of the clause was only to exclude Asiatic or African aliens, but not to exclude others, and the test was put in such a way that it did not infringe any treaty rights.

Clause put and passed.

Clause 28—"Telephone lines"—put and passed.

Clause 29—"Incorporation of Local Authorities' Association"—passed with a consequential amendment.

On clause 30—"Noxious weeds, etc."—

HON. M. JENSEN: On behalf of the Hon. Mr. Power, who was unable to be present, he moved the omission of the word "also" in line 18, as it was unnecessary.

HON. A. NORTON said that representations had been made by the members of the Jondaryan Shire Council, asking for the retention of the present provisions with regard to the destruction of noxious weeds. One

thing they objected to was that after having cleared a road of noxious weeds they should be still obliged to continue the clearing. They wrote that it would be fairer that, after the road had once been cleared, the money should be devoted to other purposes in connection with the roads, and that the occupants of the land on either side of the road should be bound to keep it clear. He did not know whether it was necessary to propose any amendment.

HON. M. JENSEN: The Hon. Mr. Power had three amendments in this clause. The first was the omission of "also," on line 18. Further on he proposed to move the insertion, after "inserted," on line 20, of "expend such sums of money as they may deem expedient in endeavouring to." The effect of the amendment would be that the local authority might enter upon the reserve or land and expend such sums of money as they might deem expedient in endeavouring to extirpate and destroy noxious weeds.

Hon. A. J. THYNNE: That is to meet the Maroochy case.

HON. M. JENSEN: Yes; through the telephone to-day the Hon. Mr. Power had mentioned that his amendment was the outcome of that case. The Maroochy Shire Council sued a man under this section for the recovery of the expense of extirpating prickly pear.

Hon. A. J. THYNNE: Noogoora burr—not prickly pear.

HON. M. JENSEN: Before the case came on, some pear had grown up again, and the judge ruled that it had not been extirpated. It might be that such was a correct view of the section, but, if such was the law, the present section might as well be wiped out, because it could be of no value whatever. They knew that some of the prickly pear did come up again, but it was the duty of the owner, once it was extirpated, to keep it extirpated. Consequential on that, other amendments were necessary—namely, in section 154 of the original Act, which provided—

> Any reasonable expense so incurred by the local authority in extirpating and destroying any such weed.

The result of the amendment would be to make it read—

> Any reasonable expense so incurred by the local authority with the intention of extirpating and destroying . . . shall be recoverable.

The local authority would be able to prove that they destroyed the pear, although it had grown up again. There would be a further consequential amendment in the original section of the Act, namely—

> That the local authority within a time specified takes such steps in endeavouring to extirpate and destroy.

To sum it all up, the effect of the amendments would be to substitute reasonable attempts at destruction, instead of a measure of destruction now which practically would never be attained, because it would be impossible to extirpate it so that it would not grow again, unless the owner took steps afterwards to prevent it from growing.

HON. A. J. THYNNE: They often heard that hard cases made bad laws; he thought it would make bad law if this alteration was made. The local authorities had no business to tackle the job of extirpating or destroying unless they were prepared to do it thoroughly. He noticed that many local authorities waited till Christmas time to do this work, when it made a regular Christmas-box for the unemployed. If the local authorities were serious about it they would tackle the question at once, and extirpate the weeds before they had an opportunity of diffusing their seed. He did not think they had a right to leave them, and then at Christmas-time, at the expense of the ratepayers, to employ men to cut down what was really a harvest of ripened seed. He quite agreed with the principle of the decision in the Maroochy case. If the local authorities undertook to extirpate the weeds, they should do it thoroughly. They should not be at liberty to put any man to expense for an imperfect piece of work.

HON. M. JENSEN: The answer to the hon. member was this: That the local authorities did not attempt to extirpate or destroy until they had given notice to the occupier or owner and he had failed to do it. Subsection (4) of section 154 of the principal Act read—

> When any such noxious weed or plant is found existing upon any public reserve not under its control, or upon any land within the area (not being unoccupied Crown land), the local authority shall cause to be served upon the occupier or person in charge thereof, or, if there is no occupier or person in charge, upon the owner, a notice requiring him to extirpate and destroy the weed or plant within one month from the service of the notice.

Hon. A. J. THYNNE: That is modified by the period of notice.

HON. M. JENSEN: Subsection (5) provided—

> If at the expiration of such period of one month the weed or plant has not been extirpated or destroyed, the local authority may forthwith,

etc. The occupier had the chance of destroying it, or, if there was no occupier the owner. Was it not a fair thing that if the local authority destroyed it, they should not be met by a highly technical defence? The Hon. Mr. Thynne said they should do the work thoroughly, but, as he understood the question, it was impossible so to extirpate prickly pear that it would not come up again, unless further steps were taken later on to prevent it.

HON. A. H. PARNELL had had twenty years' experience in local authority matters, and had taken very keen interest regarding prickly pear. It was impossible to destroy it so that it would not come up again. It would spring up perhaps for two years in succession, but it was easily destroyed afterwards.

The ATTORNEY-GENERAL rather agreed with the view taken by the Hon. Mr. Jensen. He thought the construction put upon the section, with all due respects to the learned judge, was such as to render the section practically useless. He could quite understand the kind of taxpayer against whom it was necessary to bring this clause into operation—the man who, when he got notice to clear his weeds, would not do anything, and the local authorities had to clear the

weeds themselves. The judge took the view —which appeared to him to be a very narrow one—that they did not succeed in actually extirpating the weed, and, therefore, they were not entitled to be repaid for the work they were forced to do by the neglect of the ratepayer. He did not see the amendment before, but it seemed to him a fair one.

HON. A. NORTON: The difficulty was that the local authorities did not always keep their roads clear. He had seen the roads full of pear with the seeds ready to fall and germinate. He would make it apply all through. The local authorities who did not do it ought not to be allowed to interfere with private property. Some local authorities did it thoroughly, and they ought to be encouraged. The Jondaryan Shire Council, which he had already mentioned, did their work properly, but others did not. The seeds might be brought by travelling stock or birds, and scattered over the place, and it was never thoroughly exterminated.

Amendment (*Mr. Jensen's*) agreed to.

Clause, after further verbal and consequential amendments were made, put and passed.

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

PERMISSION OF ASSEMBLY TO MEMBER TO ATTEND COUNCIL.

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

MR. PRESIDENT,

The Legislative Assembly having had under consideration the message of the Legislative Council of this day's date, beg now to intimate that leave has been given to the Honourable Digby Frank Denham to attend the sittings of the Legislative Council, if he thinks fit, on such day or days as shall be arranged between him and the Legislative Council, to explain the provisions of the Bill to consolidate and amend the law relating to the occupation, leasing, and alienation of Crown land.

WM. DRAYTON ARMSTRONG,
Deputy Speaker.

Legislative Assembly Chamber,
Brisbane, 22nd November, 1910.

ADJOURNMENT.

HON. A. H. BARLOW: I propose, very shortly, to move the second reading of the Land Bill to-morrow, and then we shall hear Mr. Denham. After that we shall go on with the Local Authorities Bill, and, with the assistance of my colleague, I think we shall be prepared to sit in the evening, if necessary. On Thursday or Friday we might go on with the second reading of the Land Bill, and get it into Committee about Tuesday. I think that is a fair arrangement of work. We shall have a lot of work coming up, and next week will be a hard week. That is the best arrangement I can make. I beg to bespeak a quorum of twenty-one members to-morrow, in order that the Standing Order about railway plans may be suspended. I beg to move—That the Council do now adjourn.

Question put and passed.

The Council adjourned at 6 o'clock.