

1858.

VICTORIA.

REPORT

FROM THE

SELECT COMMITTEE OF THE LEGISLATIVE ASSEMBLY,

UPON

THE AUSTRALIAN TRUST COMPANY'S

BILL ;

TOGETHER WITH

THE PROCEEDINGS OF THE COMMITTEE.

MELBOURNE:
PRINTED AT THE HERALD OFFICE, BOURKE STREET.

EXTRACTED FROM THE VOTES AND PROCEEDINGS.

FRIDAY, 12TH NOVEMBER, 1858.

4. PETITION.—Mr. Wood presented a Petition from W. M. Bell, styling himself Chairman of the Melbourne Local Board of Directors, and two of the Local Directors of the Australian Trust Company, praying for leave to bring in a Bill to enlarge the powers of "The Australian Trust Company," and to remove doubts as to the validity of deeds executed by agents of the company, and for other purposes, and that this House would be pleased to pass such Bill.
Ordered to lie on the table.

WEDNESDAY, 24TH NOVEMBER, 1858.

13. AUSTRALIAN TRUST COMPANY'S BILL.—Mr. Wood moved, pursuant to *amended* notice, That he have leave to bring in a Bill to enlarge the powers of the "Australian Trust Company" and to remove doubts as to the validity of deeds executed by agents of the company, and for other purposes.
Question—put and resolved in the affirmative.
Ordered—That Mr. Wood and Mr. Grant do prepare and bring in the Bill.
Mr. Wood and Mr. Grant then brought up a Bill, intituled "*A Bill to enlarge the powers of the 'Australian Trust Company,' and to remove doubts as to the validity of deeds executed by agents of the company and for other purposes,*" and moved that it be now read a first time.
Question—put and resolved in the affirmative.—Bill read a first time.

WEDNESDAY, 1st DECEMBER, 1858.

8. AUSTRALIAN TRUST COMPANY'S BILL.—Mr. Wood moved, That this Bill be now read a second time.
Debate ensued.
Question—put and resolved in the affirmative.—Bill read a second time.

WEDNESDAY, 8TH DECEMBER, 1858.

11. AUSTRALIAN TRUST COMPANY'S BILL.—Mr. Wood moved, pursuant to notice, That the Australian Trust Company's Bill be referred to a Select Committee, to consist of the following members:—Mr. Sitwell, Mr. D. S. Campbell, Mr. Mollison, Mr. Wills, Mr. Heales, Mr. Sladen, Mr. Quarterman, and the mover; three to form a quorum.
Question—put and resolved in the affirmative.

REPORT.

The Select Committee of the Legislative Assembly to which was referred the Bill, intituled "A Bill to enlarge the powers of the 'Australian Trust Company,' and to remove doubts as to the validity of deeds "executed by agents of the company, and for other purposes," have the "honor to report to your Honorable House as follows:—

1. Your committee have examined witnesses in support of the preamble of the Bill, and have amended the same in the following manner, That is to say, by striking out all the words after the word "whereas," in the thirty-seventh line down to the word "and" in the forty-second line inclusive, viz:—

"It has happened and may from time to time again happen that the same causes which disable the "borrowers of money from the said company on mortgage from paying the principal or interest due on such "mortgages also temporarily depreciate the market value of the mortgaged property and make it impossible to "sell the same at the fair average value thereof or to effect the transfer of the security and ;"

And in the forty-second line by striking out the word "therefore," and after the word "expedient" in the same line, by striking out all the words down to the word "and" in the first line of the second page, viz:—

"That the said company should be authorised to continue in the possession or receipt of the rents and "profits of any mortgaged property after having lawfully entered into such possession or receipt during such "time as they shall think fit without being bound to sell or transfer the same within the time mentioned in the "said charter and"

For the reason that as the promoters of the Bill admitted that the Governor never had exercised the power of calling on the company to make sale of any lands held by them, and that there is no reason to apprehend that he ever will exercise such power in a manner injurious to the company; and as the promoters of the Bill do not object to the Governor continuing to have such power, your committee consider such preamble as amended proved.

2. Your committee have proceeded through the several clauses of the said Bill, and have carefully noted the amendments they have deemed it expedient to make therein.

3. Your committee have now the honor to lay before your Honorable House the said Bill as so amended by them.

Committee room,

December 16, 1858.



PROCEEDINGS OF THE COMMITTEE.

WEDNESDAY, 15TH DECEMBER, 1858.

Members present :

Mr. Sladen, Mr. D. S. Campbell, Mr. Wood.

On the motion of Mr. D. S. Campbell Mr. Wood took the chair.

Copies of the Bill signed by the agent were handed to each member of the committee.

The extract from the Votes and Proceedings of the 8th December instant referring the Bill to a select committee, was read.

The following documents were laid before the committee by the clerk.

- (1.) Notice of application for the Bill.
- (2.) Printed copy of the Bill.
- (3.) Declaration of agent.
- (4.) Statement of proofs.
- (5.) Declaration of William Spragg.
- (6.) Notice from agent of day proposed for second reading.
- (7.) Notice from agent of day proposed for first sitting of the committee.
- (8.) Three copies of the *Victoria Government Gazette* containing notices of application.
- (9.) Three copies of the *Herald* newspaper containing notices of application.

The petition for the Bill was then read.

Mr. Carter appeared as counsel for the petitioners.

The preamble of the Bill was read.

Mr. Carter was heard to address the committee in support of the preamble of the Bill.

Mr. Edward Klingender was called in and examined by *Mr. Carter* and by the committee.

Mr. W. M. Bell was called in and examined by *Mr. Carter* and by the committee.

Room cleared.

Committee deliberated.

Counsel and parties were called in.

At the suggestion of the committee *Mr. Carter* proposed to amend the preamble of the Bill in the following manner, viz.—by striking out the word “therefore” in the forty-second line, and after the word “expedient” in the same line striking out the words “that the said company should be authorised to continue in the possession or receipt of the rents and profits of any mortgaged property after having lawfully entered into such possession or receipt during such time as they shall think fit, without being bound to sell or transfer the same within the time mentioned in the said charter and,” and in the first line of the second page by striking out the word “also.”

Question—That the words proposed to be omitted stand part of the preamble—put and negatived.

Motion made—That the preamble as amended stand part of the Bill.

Question put—and resolved in the affirmative.

The Chairman informed the promoters that the committee considered the preamble proved.

Clause I. read and postponed.

Clause II. read and passed.

Clause III. read and passed with amendments, as noted in the committee Bill.

Committee adjourned to to-morrow at half-past Eleven o'clock.

THURSDAY, 16TH DECEMBER, 1858.

Members present :—

Mr. Wood (in the Chair.)
Mr. Sladen, Mr. D. S. Campbell.

Counsel and parties were called in.

The minutes taken at the last meeting of the committee were read.

Mr. Carter was heard to address the Committee applying for the reconsideration of the preamble of the Bill with the view of amending the same.

Committee deliberated.

Question—That the preamble be recommitted—put and resolved in the affirmative.

Mr. Carter then proposed to amend the preamble in the following manner, viz., after the word “whereas” in the thirty-seventh line by striking out the words as follow: “it has happened, and may from time to time again happen that the same causes which disable the borrowers of money from the said company on mortgage from paying the principle or interest due on such mortgages also temporarily depreciate the market value of the mortgaged property and make it impossible to sell the same at the fair average value thereof, or to effect the transfer of the security, and”

Motion made—That the preamble as amended stand part of the Bill.

Question put—and resolved in the affirmative.

Clause I. was again read and passed with amendments, as noted in the Committee

Bill.

Ordered—That the chairman do report the Bill with its amendment to the House.