Queensland

Parliamentary Debates
[Hansard]

Legislative Council

FRIDAY, 19 AUGUST 1864

Electronic reproduction of original hardcopy

LEGISLATIVE COUNCIL.

Friday, 19 *August*, 1864.

Gold Export Duty Bill, read 2°.—Municipalities Act Amendment Bill, read 2°.—Roads Enclosure Bill, read 2°.—Civil Service Act Extension Bill, read 2°.

GOLD EXPORT DUTY BILL.

The Hon. J. BRAMSTON rose to move the second reading of "A Bill for granting an Export Duty upon Gold, and to facilitate the collection of such Duty." He said it was a measure, the object of which was to provide, out of the gains of the diggers, a fund to defray a portion of the expenses required for escorts, police protection, and other expenses necessary to the proper management of the gold fields. The duty would only be paid upon the gold actually exported, and would not press hardly upon any one, as it would only be the fortunate diggers who would have to pay it. It only amounted to eighteen-pence per ounce, the same as, he believed, was at present levied in New South Wales. That was the whole principle of the measure, and he thought there could be no reasonable opposition to it.

The Hon. ST. G. R. GORE wished to know whether, if a person exported gold from this Colony to the Sydney Mint, paying of course the eighteen-pence per ounce duty upon it, he would be charged a second time in New South Wales,—whether he would be allowed to export the same gold, free of duty, from the Mint?

The Hon. J. BRAMSTON: The first clause states, "All gold whether wrought or unwrought except coined gold issued from the Royal Mint at London or from the branch thereof at Sydney," &c.

The Hon. W. WOOD said that some of the penalties appeared to him to be rather hard. For instance, if a digger, with gold-dust in his possession, chose to ride over the frontier, he was liable to a fine of one hundred pounds. There were places where gold was occasionally exported where there was no collector of customs, and it would be very hard for the digger, in such a case, to be fined. He should certainly oppose the ninth clause in committee.

The motion was put and passed, and the Bill read a second time.

MUNICIPALITIES ACT AMENDMENT BILL.

The Hon. J. BRAMSTON moved the second reading of "a Bill to amend the law relating to Municipal Institutions." He observed that the Bill contained a number of provisions which were identical with those of the original Act; and it would, perhaps, be the most convenient course for him to draw the attention of the Council to those clauses which embodied prominent alterations of the present law. The first alteration was contained in clause thirteen, which established a new system of voting, hitherto unprecedented in the Colony. The votes were accorded in proportion to the number of rates paid by the several ratepayers. As the duties of the corporations were principally connected with the expenditure of local taxation, it was only right that those who contributed the largest share of rates should have the chief voice in that expenditure. The scale was not an excessive one, as a man could not have more than three votes, whatever amount of rates he paid. Another new principle in the elections was also found in the fifteenth clause, which abolished the system of open nominations, and did away with all the noise, confusion, and riot which took place at those assemblages, and substituted the following:—Any five electors, could, by document, setting forth the name of the candidate, be considered to have proposed that candi-

date. The document was to be sent to the returning officer, who, on the day of election, could declare that person to be elected. But if there were more persons so nominated than were to be returned for the district, the returning officer was to advertise the names of the several candidates, the day of election, and the polling places. The 76th clause also introduced another alteration, viz., the assessment, in certain cases, of property beyond the boundary line. He thought it was not right that persons who built their houses just on the other side of the corporation boundary should pay no rates whatever for a road which, perhaps, ran before their very doors. The 92nd clause was one which endeavored to place in the hands of the corporation the power of preventing fires, by prohibiting the erection of inflammable buildings:—"Upon the receipt of a petition, signed by the majority of the proprietors of any portion or section of land bounded by four streets, within a municipality, or at the request of the municipal council, it shall be lawful for the Governor in Council, by proclamation, to declare such portion or section to be of the first class for the purposes of this Act; and in any portion or section of the first class it shall not be lawful, after the date of such proclamation, to erect any building of other material than brick or stone, nor to roof any building with wooden shingles, or with any other inflammable material," &c. The towns in this Colony were as yet hardly sufficiently advanced to render necessary the introduction of long building Acts, specifying the width of walls, and other minutiæ, to be complied with, and it was thought that in the meantime this clause would answer all purposes. When the towns increased in size, a Building Act, similar to those in force in other colonies, could be introduced. The 98th clause also contained a new provision, which rendered the mayor responsible for all accidents which occurred from the want of due precaution during the progress of works, but it gave him the power of recovering his costs from the contractor. The 101st clause gave the corporation greater power and right of entry to land upon which public works were erected, but it required that they should make good all damage done to private property. It also excluded them from entering cultivated land, grazing paddocks, shrubberies, &c. Those were the principal provisions of the Bill, but in committee he should ask permission to add one more clause, which would have the effect of making a corporation liable to be sued in the same way as a private individual. At present, as the law stood, no corporation could be bound, unless its own corporate seal was attached to the agreement.

The Hon. ST. G. R. GORE said he did not intend to oppose the Bill, but he should like to see another provision introduced, to the effect that when a corporation became an intolerable nuisance, a petition signed by two-thirds of the ratepayers should be sufficient to displace them. He thought that if any community found they had been too hasty in getting up a corporation, who had not proper means to carry out their work, they should be able to get rid of them. He thought there might also be a further provision to render the mayor and aldermen responsible for all liabilities, as they were instrumental in incurring them.

The question was then put and passed, and the Bill was read a second time.

ROADS ENCLOSURE BILL.

The Hon. J. BRAMSTON moved the second reading of this Bill, which, he said, had been framed to assist the owners and lessees of land. If a person owned or leased land on both sides of a public road, instead of running a fence on each side of that road, he could save himself the expense by enclosing the land in one fence and putting up a gate of certain dimensions—not less than sixteen feet wide—which was to be open to the public. The benches of magistrates had the power of granting licenses for one year, the holder of the gate to keep it, and the road for fifty yards, in good repair. That was the main provision of the Bill; but there were other clauses which prevented it from pressing heavily upon any one, and the public traffic from being in any way obstructed. There was also a penalty upon persons who left the gate open, or did any damage to it, and a further clause which provided that persons travelling along the road should not remain within the enclosure. He thought the Bill would be of great service, and that the public would not be inconvenienced by its operations.

The Hon. D. F. ROBERTS said it behoved honorable gentlemen to look carefully at the Bill before they allowed it to pass. In his opinion, it was calculated to benefit only the wealthy squatter, and would prove a great hardship to many persons. The clause which stated that no person should feed his cattle or sheep within the enclosures appeared to him a very arbitrary one. He should like to know how the boundaries were to be marked out, and whether if a man's sheep happened to stray a few feet beyond the line, they were to be impounded? He thought it was not right that the public roads should be enclosed by any private persons. They were made for the convenience of the public, and should be kept open.

The Hon. J. WATTS denied that the Bill was likely to benefit squatters alone. Many persons living in the neighborhood of Brisbane and Ipswich, would be greatly benefited by it. In many cases where the road was fenced in on either side, so that parties travelling along it were compelled to keep on the same track, it became at times utterly impassable. The Bill before the Council would allow the owners of the land adjoining the road to enclose it, and travellers would be benefited by it, as they would

not be restricted to a width of two chains. The gates would be, in most cases, eighteen feet wide. He had already enclosed portions of a road under the provisions of the Act, and he was perfectly sure that if persons travelling along it could not go through his paddock, they would be put to a great deal of expense in macadamising the road. The honorable gentleman who had just spoken, had referred to persons travelling with stock, and had asked if sheep would be impounded if they strayed a few feet from the boundary line. But if the honorable gentleman looked at the Pastoral Leases Act, he would find that whether the land were sold or not, persons travelling with stock might go a quarter of a mile on either side of the road. The only prohibition was, that a man could not turn his bullocks or his horses into a paddock, and leave them there all night to go where they pleased. He would only add, that he should give his cordial support to the second reading of the Bill which, he repeated, would be as advantageous to persons living in the neighborhood of Brisbane and Ipswich, as to those in the interior.

The Hon. ST. G. R. GORE said he coincided with the opinions of the last speaker, and thought the honorable gentleman who had disclaimed against the Bill, had entirely misapprehended its provisions, if he thought it would only benefit the squatters. It would be of great service in many cases to persons who held adjoining blocks of land through which a road passed, as they could unite and put one fence round it, with a good gate at either end. Besides which, the roads which were confined between two lines of fence were frequently altogether impassable in wet weather.

The Hon. W. WOOD said, if the clause were still in force which permitted persons travelling with stock to take half a mile on either side of the road, there would be no hardship; otherwise, in large paddocks which cattle could not get through in one day, a good deal of difficulty would ensue.

The motion was agreed to, and the Bill read a second time.

CIVIL SERVICE ACT EXTENSION BILL.

The Hon. J. BRAMSTON moved that this Bill be read a second time. He said it contained only two clauses, the first of which would meet with neither opposition nor discussion; it merely extended the advantage of the Act to the lower sort of public servants. It applied to matrons, turnkeys, and warders of the gaol, messengers, &c.; they would pay a per centage to the superannuation fund, and reap the same benefits as other members of the civil service. The second clause provided that those civil servants who had been in the employ of New South Wales previous to separation, and had since served in Queensland, should, by paying a per centage on their annual salary previous to separation, be allowed to have that time counted in their claim to the superannuation allowance. He considered it was only fair that they should do so. There was nothing else in the Bill to which he need refer.

The Hon. W. WOOD said he considered it very unfair that any civil servant who had been in the employ of the Government of New South Wales should be asked to pay one farthing towards any such fund; because this Colony, in accepting the services of those persons, took them with all their claims, and they had a claim to a similar allowance in New South Wales. Still, as some of those servants who had been only a short time in the Colony when the Act was passed, had contributed towards the fund, it was but right that they should all be placed upon the same footing. He intended, however, to propose a clause to the effect that no civil servant who held different offices should rank from an accumulation of services, but that he should take rank from the highest salary he received, and remain in the class in which that salary placed him. He wished, also, to ask in what position the officers of the two Houses of Parliament were to be considered; because the Act was worded thus—"who are appointed by the Supreme Court or the two Houses of Parliament."

The PRESIDENT said that, as he was engaged during the past session in the discussion which took place on the Bill, he would briefly detail, for the information of honorable gentlemen, the facts which then came before the House. It was proposed originally by the Civil Service Act that all claims for service should date from the time of separation. It seemed then that an injustice would accrue to those civil servants, who, being in the service of this Government at the time of separation, had also been, for a number of years, in the employ of the Government of New South Wales; and had a good many years' service to count. It seemed a hardship that those officers should be placed on the same footing with others whose appointments only dated from the period when Queensland became a separate Colony;—that the Government of Queensland should ignore the fact that this Colony had been for a number of years a portion of another Colony. The Order in Council which made this a separate Colony provided that all officers then in the service of New South Wales should be transferred to Queensland, and placed under the new Government, precisely as they were in New South Wales; and he was of opinion that it signified they should be transferred with all the rights and claims attaching to their service. Under the Government of New South Wales they had certain claims, and if there was any signification in the Order in Council, it meant that those claims should be unimpaired. But, in accordance with the view taken by the Government of Queensland, at that time, those claims were ignored. The Government seemed to think

that the Colony of Queensland had been created by a stamp on the ground, and that there was nothing due to those who had been serving the Colony for years previous to separation. For his part, he could not see the justice of that argument, and there were many honorable gentlemen who had agreed with him. The result was that an amendment was proposed, which substituted the following clause for clause twenty of the Act:—

"In the case of officers who served the Colony of New South Wales, when Queensland was a portion thereof, and who were removed to the Queensland portion of New South Wales prior to separation, and who have since continued their services in the Colony of Queensland, the said term of continuous services shall be held to commence from the time at which they commenced to perform their duties within the said Colony of New South Wales."

The effect of that clause was, of course, to give those officers who had been long in the service the full benefit of their time. He might state that the Bill was brought in during a late period of the session, and the Assembly did not concur in the view taken by the Council, and returned a message conveying their refusal in these words:—

"Because it is considered that in the original clause a full measure of liberality and justice is dealt out to public servants formerly in the employ of another Government, by recognising the whole of their services within the boundaries of Queensland; and because it would be unjust to charge the people of this Colony with compensation for services neither rendered to this Government nor within this territory."

The whole gist of the question was contained in that argument. They (the Government) found that nothing that had previously taken place was of any benefit to them. We had a full-blown responsible Government found for us, and there was nothing but waste before that time. He could not conceive the tone of that man's mind who penned the paragraph he had just quoted. It inferred that everything was to date from the time when separation became an accomplished fact. A great injustice appeared to him to be embodied in the clause: that had been his opinion from the first, and unless some much stronger arguments were adduced than those which had already been advanced, he should still adhere to it. That was the reply which was given to the original amendment of the Council. They insisted upon that amendment for the following reasons:—

"Because officers in the employment of the Government of New South Wales, and serving in that portion of New South Wales which, on separation, became Queensland, were, by the 20th section of the Order in Council, of 6th June, 1859, continued in their offices, as if such Order had not been made; consequently, they were continued in their offices with the length of service then existing. Because, by the same section, the power to the Governor of New South Wales, in relation to such officers, was vested in the Governor of Queensland; and with such transfer of power there was clearly a transfer of obligations. And because to deny the obligations of the Government of New South Wales, with reference to such officers, for services rendered, seems to the Council to accord neither with public policy nor good faith."

That answer was sent to the Assembly, and when the question was under consideration in the Council, a division took place, and a majority of eleven to three affirmed the desirability of substituting the amendment for clause twenty. The Council were now asked, to a certain extent, to reverse their decision; but he trusted they would carefully consider the propriety of doing so. He would proceed to state that the Assembly sent a message in reply, to say that they would agree to the Council's amendment, if the following proviso were added at the end of the clause:—

"Provided that every such officer shall pay within six months from the passing of this Act to the fund for providing retiring allowances a sum equal to two per cent. per annum on the average salary received from the commencement of such service."

That was received on the last day of the session, and the Council assented to the proviso rather than suffer the Bill to be lost, but made a further addition of these words:—

"Up to the date of their removal to the said Queensland portion of New South Wales."

It appeared that since then, the Government of New South Wales had also passed a Civil Service Bill. It was always supposed that the Civil Service Act of Great Britain applied to the colonies. It was supposed that Act was in force until, under the Constitution Act, the colonies otherwise provided; and it might be that the colonies took two or three years to consider what sort of measure was best fitted to replace it. The Colony of New South Wales had now done so, and they had passed an Act supplementing the civil revenue, to the extent of £10,000, in order that the services of those officers under its government who had long service to count might be met. The New South Wales Government had in fact, acted with great liberality towards its servants. Now, he had made a calculation in order to arrive at the amount which the Government of Queensland would have to receive, supposing this two per cent. were levied upon the past services of those officers who—without any choice on their part, but by the operation of the same Order in Council—were removed from one colony to another, and he found that, taking the first, second, and third classes altogether at the average existing rate of salaries, they would be paid about £748. That was to say, this Colony risked what might be called a breach of faith for the sum of £748. He could not see that such an amount would be compensation for the loss of character which the Colony would sustain. The operation of the Act would also press heavily upon some individuals. He found that some of the officers would have to pay

£70, £80, or even as high as £90. Those were not very large sums, but they might be so to some officers, and to those who had large families it would certainly be a hardship to ask them to pay down at once £70 or £80 towards a fund to which, as it appeared to him, they were fully entitled without such payment. He thought it would have been much more in accordance with good faith and good policy to have foregone all charge upon those officers—to have taken the obligation upon our own shoulders, and not to have quibbled upon the question. He had gone fully into the question, in order to lay before honorable gentlemen the facts which took place when the question came before the Council during the previous session. The discussion upon the Bill would be principally in committee, but he did not wish to let the second reading pass without expressing his opinions, lest he should be considered to have given a silent approval. He had made enquiries in reference to the working of the Act. One honorable member had asked whether it applied to the officers of the two Houses of Parliament. He had spoken to several Parliamentary officers, who had told him that the clause in question was not inserted by their wish, and that they had no desire to come under its provisions. He found, also, that the native police officers did not come under this Act. He fancied that, as they were police, but not under the ordinary Police Act, and not contributing to the police superannuation fund, they were not subjected to any deduction from their pay, and therefore could not claim the benefit of the police superannuation fund. But, being nominally police officers, according to the strict reading of the Act, they were also excluded from any advantages arising from the Civil Service Act. A case had come under his notice, in which a person who had been eight or nine years in the service, found himself put down as a police magistrate—his appointment being dated from the 1st January, 1864. In conclusion, the honorable gentleman expressed a hope that the Council would carefully consider the Bill in committee, and not lightly revoke the decision they had previously come to.

The question was then put, and the Bill was read a second time.