

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 20 SEPTEMBER 1876

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taking the second reading of the Bill at the next sitting of the House. Nearly the whole of its details had been already under the consideration of the Council. The Bill had been passed by Parliament, and sent home for the approval of Her Majesty; but the Board of Trade made one or two suggestions on minor points, and the Bill was referred back for the consideration of those points. The Bill had had the further consideration of the Government, and had also been passed in another place; and he believed that the suggestions of the Imperial authorities had been embodied in the Bill as it was now presented to the Council. In the present state of the paper it would be practicable for the House to deal with the Bill at the earliest date—especially as honorable members had before considered and approved of its provisions; therefore he proposed that the second reading of the Bill be an order for to-morrow.

Question put and passed.

LEAVE TO MEMBER TO ATTEND SELECT COMMITTEE.

A message was received from the Legislative Assembly, requesting that leave be given to the Hon. C. S. Mein to attend before the Select Committee appointed to inquire into the petition of Henry Jacobs.

On the motion of the POSTMASTER-GENERAL, leave was granted as requested.

QUEENSLAND NATIONAL BANK BILL.

The Hon. E. I. C. BROWNE, in moving the second reading of a Bill to authorise the Queensland National Bank (Limited) to open and keep registers of shareholders in places beyond the colony, said that the Bill had been brought before Parliament for the purpose of carrying out certain resolutions that the shareholders of the company carried at their last general meeting. Those resolutions were, that the shares should be put upon the London market, which operation it was believed would be a great advantage to the company. To enable the company to do that with any good effect, it would be necessary to pass the Bill into law; as without legislative enactment, there could be no hope that the shares would be taken up in London, inasmuch as persons buying them would have to wait long for their registration in the colony, and for the payment of their dividends, too—disadvantages really so great that it would be futile to put the shares in the London market. The bank was incorporated under the Companies Act of 1863, but the Bill was necessary in order that at its office in London, as well as in the colony, it should have authority to open and keep registers of shareholders, and do all things necessary for the accomplishment of that object, and the payment of dividends, as well as to carry on the other business of the company. Under the circumstances, as the Bill affected only the shareholders, he ventured to think that the House would pass it without objection.

LEGISLATIVE COUNCIL.

Wednesday, 20 September, 1876.

Assent to Bill.—Navigation Bill.—Leave to Member to attend Select Committee.—Queensland National Bank Bill.—Stamp Duties Bill.

ASSENT TO BILL.

A message was received from the Governor, informing the House that His Excellency had assented to

The Telegraphic Messages Bill.

NAVIGATION BILL.

Amongst other measures received by message from the Assembly, was the Navigation Bill, which was advanced through its preliminary stages.

The POSTMASTER-GENERAL expressed his hope that there would be no objection to

He should have been glad to be able to refer honorable members for further information to the evidence taken before the Select Committee of the Assembly that had reported on the Bill; but the evidence was so very meagre, he was afraid there was nothing to be added to what he had already stated. The whole object of the Bill was to give effect to the resolutions of the shareholders.

Question put and passed.

STAMP DUTIES BILL.

The House being in committee on this Bill, and all the provisions having been passed, the schedule came under consideration.

The Hon. T. L. MURRAY-PRIOR, referring to the exemption from stamp duty of "liens on crops," contended that wool was a crop that should be exempt also. When wool was low, every interest in the colony was depressed. He moved, by way of amendment—

That the words "and liens on wool" be added at the end of the schedule.

Question—That the words proposed to be added be so added.

The POSTMASTER-GENERAL said he had great doubts whether an amendment such as that proposed could be made by the committee. The Bill was really a money Bill. It was competent for the House to reject the Bill, but not to alter or amend it. As a money Bill, it originated in the Lower House, and it came up to the Council for approval. Having the doubts he had expressed, he now submitted a question for the opinion of the Chairman:—Whether it is competent for the committee to make the proposed amendment or not?

The Hon. H. G. SIMPSON said, before the Chairman answered, he should like to urge that most honorable members, if they had read the Constitution Act, must know that the Council were not debarred from doing anything they might think fit with a money Bill, or a Bill imposing taxation, except originate it. He admitted that it had not been their practice to interfere with money Bills more than was absolutely necessary; but they had frequently interfered with them in regard to decreasing taxation, never to increase it. In this case the proposition was to decrease taxation, by making wool exempt from stamp duty as well as other crops; therefore, he could see no constitutional objection to the committee coming to a decision on the point as might seem most advisable to them. The case was clear to his mind; but he should be glad to hear the opinion of the Chairman.

The Hon. A. H. BROWN should have preferred to have seen the Postmaster-General consent to the policy of the amendment; and he endorsed the views of the honorable and gallant gentleman who last addressed the committee.

The Hon. F. T. GREGORY contended that however the question was viewed, the powers of the Council under the Constitution Act extended to the House disallowing any Bill or portion of a Bill imposing taxation on the country. If they only had power to reject entirely a money Bill, it would be perfectly clear that they had no control whatever over questions of taxation; because, by "tacking" money Bills the Government could carry any extreme measure.

The POSTMASTER-GENERAL said the practice of the Imperial Parliament was that for which he had already contended. He had been consulting "May" during the progress of the debate, and he found, at page 574, that it was not competent for the House of Lords to alter any money Bill:—

"The legal right of the Commons to originate grants cannot be more distinctly recognised than by these various proceedings; and to this right alone their claim appears to have been confined for nearly 300 years. The Lords were not originally precluded from amending Bills of Supply; for there are numerous cases, in the journals, in which Lords' amendments to such Bills were agreed to: but in 1671, the Commons advanced their claim somewhat further, by resolving, *nem. con.*, 'That in all aids given to the King by the Commons, the rate or tax ought not to be altered'; and in 1678, their claim was urged so far as to exclude the Lords from all power of amending Bills of Supply."

"May" went on to say, that—

"On the 3rd July, in that year they resolved:—'That all aids and supplies, and aids to His Majesty in Parliament, are the sole gift of the Commons; and all Bills for the granting of any such aids and supplies ought to begin with the Commons; and that it is the undoubted and sole right of the Commons to direct, limit, and appoint in such Bills the aids, purposes, considerations, conditions, limitations, and qualifications of such grants; which ought not to be changed or altered by the House of Lords.' It is upon this latter resolution"—

that was, the resolution of 1678, up to the present time—

"that all proceedings between the two Houses in matters of Supply are now founded. The principle is acquiesced in by the Lords, and, except in cases where it is difficult to determine whether a matter be strictly one of Supply or not, no serious difference can well arise."

So that, on that point, all seemed perfectly clear. He understood that the rule adopted by the Council was to follow the practice of the House of Lords; indeed it was laid down so by their Standing Orders. The Bill was clearly a money Bill; it provided for the payment of certain duties of the Crown by the imposition of these duties upon the taxation set forth in its provisions. If the Council took upon themselves to except from the existing taxes a certain one, which the proposal of the Honorable Mr. Prior amounted to, they would be originating a remission of taxation; and, in addition to that,

they would be interfering with a money Bill which had been presented to them by the Legislative Assembly for their concurrence. On the grounds stated, he thought the amendment was beyond the powers and privileges of the House, and that the committee could not entertain it.

The Hon. T. L. MURRAY-PRIOR: The House could alter and increase figures in a money Bill, so long as they put the alteration in italics; if they could do that, they could certainly insert words to exclude taxation. The Bill was not a Supply Bill, and the argument that the committee could not interfere with it was ridiculous.

The Hon. H. G. SIMPSON: The practice of the House of Lords did not apply. What had occurred in the other colonies, with constitutions similar to that of Queensland, was applicable. He could state with confidence that, so far from the practice of the House of Lords having obtained in the other colonies, in New South Wales, a Customs Bill, sent up from the Assembly, was altered by the Council in several respects—the Upper House struck out and reduced certain items of the tariff;—and, notwithstanding, the Bill became law with those alterations. That was a precedent, without going the length of “May” to find one, which affected the Council more than one from the House of Lords; and more especially as the Council were not under a prescriptive constitution like that of England, but under one clearly defined by enactment.

The POSTMASTER-GENERAL had no doubt the honorable and gallant gentleman had stated what he believed to be the fact; but still the precedent was not shown. He should like very much to see it: there might be something in the circumstances of the case which induced the Assembly to accept the changes made by the Council in a money Bill.

The Hon. J. C. HEUSSLER: The practice of the House of Lords had nothing to do with the case at all; it might be followed as to forms, but not as to rights. The Constitution Act, it struck him very forcibly, gave the Council their rights.

The Hon. H. G. SIMPSON regretted that, in consequence of the death of the late Clerk of the Parliaments, he could not put before the House, at the moment, the references to the New South Wales precedent of which he had spoken. At his request, Mr. Henry Johnson had written to the Clerk of the Parliaments of New South Wales, and had been furnished by that officer with the Minutes of the Council on the point, and with a copy of the alterations made in the tariff by the Council for the remission and the reduction of proposed taxation. Perhaps those documents could be recovered by the gentleman who now held the position of Clerk.

The CHAIRMAN said: The question has been raised whether the Council can alter, or amend, or interfere with a Bill dealing with money, taxation, or revenue, as this Bill does.

It has been a subject much debated both in this Council and elsewhere; and, I would suggest to the mover of the amendment—I have my own opinion upon it—that we cannot deal with the Bill by the insertion of the words he proposes. I give this opinion, now, to the committee; with the express wish that the question may be referred to the House, for the ruling of the President—if my opinion is disputed. I think we cannot interfere.

The Hon. A. H. BROWN: After such a decision, and as his opinion was adverse to the Chairman's, he should now, with due respect, move—

That the Chairman leave the chair and report the point to the House.

Question put and passed.

The House resumed, and the Chairman made his report.

The PRESIDENT said: I understand that there has arisen in the Committee of the Whole a discussion as to whether this House has power to insert a proviso in the exemption from duty of certain matters which have been laid before it in the Bill to amend the Stamp Duties Act of 1866. In giving a decision upon the point, I am bound, of course, by the four corners, as it is sometimes called, of the Constitution Act; and I find by the second section of that Act that full power is given this Council to make laws necessary

“for the peace welfare and good government of the colony in all cases whatsoever,”

except as to its powers to “originate” money bills or bills affecting taxation:—

“Provided that all Bills for appropriating any part of the public revenue for imposing any new rate tax or impost subject always to the limitations hereinafter provided shall originate in the Legislative Assembly of the said colony.”

I presume that this Bill originated in the Legislative Assembly, and that therefore it is before us—before this Council, holding plenary powers, to deal with it as we may deem fit. The limitation provided for the Legislative Assembly is, that all appropriations of money shall originate by message from the Governor;—but to that question we need not further refer. My decision, with reference to the question now put before me, is, that it is quite competent for this Council to enter the exemption which is proposed, if it deems fit to do so.

HONORABLE MEMBERS: Hear, hear.

On question put and passed, the House again resolved into Committee of the Whole.

A suggestion was made, and entertained, to alter the amendment so that the exemption should read as applying to “liens on crops, including wool;” but it was not finally acted upon.

The POSTMASTER-GENERAL said he did not want to have any ambiguity about the amendment; if the Council wished to exempt liens on wool from stamp duty, let the issue be clearly put, or the question might arise whether wool was a crop or a clip. He re-

gretted very much that he was unable to assent to the amendment at all. Liens on wool stood upon a very different footing from liens on crops; they were generally entered into in connection with mortgages on stock, and they must be treated, *pari passu*, as mortgages of that character. He did not see why any distinction should be made between the two classes of mortgages. As it was the fact that no amendment had been proposed in the previous part of the schedule, the committee tacitly admitted that, for the purposes of revenue, a tax should be imposed on mortgage transactions; and the borrowing of money on the security of wool was a transaction in the nature of a mortgage; and, why that should be excepted from the Bill more than a mortgage on the sheep themselves, he could not see. Transactions for liens on wool were never entered into for small amounts. The duty was only one-eighth per cent., and it would not press heavily on the borrowers, especially as it was proposed to relieve borrowers from any imposition of duty on releases of mortgages. Liens on crops were, almost invariably, raised by small farmers, for small sums, £10 and upwards; and rarely did the amount exceed £50 or £100. It would be observed that for the first £50, the tax was 5s., and for every additional sum of £50 borrowed, 5s. more. Were the amount borrowed small, that tax would be very burdensome to the small men, who were struggling to make both ends meet on the small farms scattered over the country. It had been conceded by the Legislative Assembly that there should be a remission in their favor; the revenue would not suffer materially; and a large number of struggling farmers would be relieved. As he had pointed out, liens on wool were generally contemporaneous with and auxiliary to mortgages on sheep, and, however taxed, did not pay duty at all. It was only in rare exceptions that borrowers of money on a clip paid stamp duty on a lien on wool. Where a person borrowed on his clip, his sheep being free, he should be treated as a person giving a mortgage on his sheep.

The Hon. E. I. C. BROWNE contended that the exemption in the Bill involved the principle of class legislation, as he recognised no difference between a lien on an agricultural crop and a lien on a clip of wool, except that one transaction was smaller than the other. He should vote for introducing the words. If the amendment should not be carried, he would vote for the striking out of the exemption altogether.

The Hon. G. SANDEMAN said the Postmaster-General had given the committee a reason in favor of the exemption, and had pleaded in favor of a class of struggling men. The honorable gentleman should bear in mind that there was another class in this country comprising a large body of men who were struggling, and who were depending on their crop of wool for their subsistence, the same as those

who followed agriculture, and who had the sympathy of the promoters of the Bill. It was known that in many cases liens on wool were taken without reference at all to mortgages on stock; and that the mortgage might be held by one person, and the lien be taken by another. He hoped that the amendment would be carried, for he could go with the Honorable Mr. Brown in saying that as otherwise the Bill would be class legislation, he would vote for excising the exemption of liens on crops, rather than vote for one exemption without the other.

The Hon. J. C. HEUSSLER did not see why liens on wool should be necessarily large transactions. There were struggling men on small holdings on the Darling Downs, combining agricultural with pastoral pursuits. He knew of some with 500 to 1,000 sheep; their wool clips did not come to much more than £100; consequently the Postmaster-General's argument did not appear quite so sound as he would make it appear. He thought the committee should vote for the addition.

The Hon. E. I. C. BROWNE said, if the committee should make the exemption proposed, they would only be following out the intentions of the legislature. When the stamp duties were imposed, the intention was that liens on wool were not to be included amongst the transactions liable to duty. He could not lay his hands on the proof; but he knew what he stated to be the fact. By some extraordinary means, liens on wool crept into the schedule in error; but it was not the intention of Mr. McLean, the then Treasurer, that they should be subject to duty.

The Hon. A. H. BROWN: The Chamber could speak out on the question, as there were so few honorable members connected with the wool interest. Not that they should close their mouths, otherwise; because they had a right to express their opinions. The amendment should be added to the exemption of liens on crops.

The Hon. F. T. GREGORY remarked that one point had been overlooked. It frequently occurred that a station on which wool was grown was mortgaged before any attempt was made to take a lien on the crop of wool. He could see that if the attempt was made to impose duty on a lien on wool where the station was already deeply mortgaged, the struggling grazier would be paying duty twice over. Indeed, some short time ago his attention was drawn to that fact by a gentleman deeply interested in pastoral leases, that the stamp duty was very burdensome. A station mortgage was already paying duty on the full amount; the lien on wool was only to give additional security, if possible, or to add weight to the security of the party advancing upon the station and the clip. He (Mr. Gregory) thought it very burdensome indeed to have a tax in the shape of a duty on the lien on wool, as well as the mortgage duty.

The POSTMASTER-GENERAL said he did not see any force in the arguments of the honorable gentleman. When a second advance was got, a further consideration was received. If there was a stamp duty at all, it ought to be paid upon the amount borrowed. If an additional amount was borrowed, there ought to be an additional assessment. He saw that the feeling was rather strong in the committee, that no difference should be made between the two classes of borrowers; and it was very possible that the majority were in favor of not making any exemption. He should himself prefer that the latter course should be adopted, rather than that the words proposed should be added. If they made no exemption, then, there would be no class legislation. Let the schedule, with that excision, stand!

The Hon. E. I. BROWNE: No. The committee would then be put in the position of proposing a tax instead of reducing one. Although he did throw out the hint, yet he should be sorry if they put themselves in that position.

The POSTMASTER-GENERAL: No. It could not be proposing a tax, because it already existed.

The question was put on the amendment, and the committee divided:—

CONTENTS, 12.

The Honorables E. I. C. Browne, T. L. Murray-Prior, J. F. MacDougall, L. Hope, F. T. Gregory, H. G. Simpson, F. H. Hart, J. C. Heussler, W. D. White, W. D. Box, G. Sandeman, and A. H. Brown.

NOT-CONTENTS, 4.

The Honorables C. S. Mein, T. B. Stephens, J. Gibbon, and J. Mullen.

Resolved in the affirmative.

The House resumed, and the Bill was reported as amended.