

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 4 AUGUST 1880

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LEGISLATIVE COUNCIL.

Wednesday, 4 August, 1880.

Question.—The *Xanthium Strumarium*.—Return.—
Absence of Member.—Insanity Bill—committee.

The PRESIDING CHAIRMAN took the chair at 4 o'clock.

QUESTION.

The HON. W. D. BOX asked the Postmaster-General,—

1. Do the Government intend to take any action presently to destroy the *Xanthium Strumarium* on the Noogoora Estate, alluded to in the Report of the Chief Inspector of Stock for the year 1879?

2. If so, will they inform the Council what steps they propose to take?

The POSTMASTER-GENERAL replied—

The *Xanthium Strumarium* is specified as a noxious plant in the Burr and Thistle Destruction Bill now before the Legislative Assembly.

THE XANTHIUM STRUMARIUM.

The HON. W. D. BOX moved the adjournment of the House for the purpose of taking into consideration the answer just given by the Postmaster-General, and eliciting an expression of opinion on the subject. In the report of the Chief Inspector of Stock it was stated that lately, in the district to which his question referred, a new plant had appeared, called the *Xanthium Strumarium*, which seemed likely to most injuriously affect the chief interest in this country. That report he took to be perfectly reliable: the names appended to it were those of men who were well known. The poisonous qualities of the plant were certified to by Dr. Bancroft, and Mr. Gordon stated that in its young state it was greedily devoured by sheep, cattle, and horses, and when in that state it was a deadly poison. The report also stated that there were 500 acres of land infested by this entirely new plague. The Postmaster-General had told them that a Bill was before the Assembly which would provide for the destruction of the plant; but they all knew how long a Bill took to pass through Parliament; and even if the Bill referred to became law, the machinery that was given to the Board could not come into operation this season at all, so that the whole season would be lost in trying to tackle this deadly plant. If they believed what this report stated, they had amongst them 500 acres of a plant that was most injurious to the very best interests in the country,

and he felt it his duty as a colonist to draw attention to its existence. He thought the Government in their wisdom would have taken such a dangerous evil as this in hand, and have ploughed up the 500 acres rather than allow a plant of this description to spread throughout the country. Only a few plants on one cotton plantation had, in the course of years, extended over 500 acres; and, if it could be crushed out of the country by having that 500 acres ploughed up, it would be a grand thing done. It was a danger that should be crushed at once. Bathurst burr was bad enough, but sheep would not eat it; but this killed them in its young state, and when it got to maturity it injured the wool. He had called attention to the fact that this evil could be crushed out by taking it in hand at once, and in doing so he had done what he considered to be his duty.

The POSTMASTER-GENERAL did not see what the hon. gentleman could expect the Central authorities to do in a case of this kind. The whole of the roads and unoccupied reserves in the colony had, he believed, been placed under the control of the local authorities, whose province it was to deal with such an evil as this was represented to be. No doubt it was a plant that ought to be eradicated, but he did not think that House had sufficient evidence before it from the report of the Chief Inspector of Stock to warrant it in departing from the usual course of procedure, or to justify the Government to ask for special authority from the other House to do a work which they were not authorised to undertake by the law as it now stood. If the plant existed on land held by private owners it was for them to deal with it; if it was found on public roads or reserves it was then the work of the local authorities to remove it. Admitting all the hon. member had said on the subject, he must see that there were a great many questions now before Parliament to which the Government were committed which were really of very great urgency; and in a matter of this sort, when the power to deal with it already rested with the local authorities, he could not reasonably expect the Central Government to bring down a special measure to meet it. It might also be as well to observe that they could not always rely upon the statements of scientists, who sometimes took views which, if given effect to, would lead the authorities into precipitate action. He did not think there was anything in the report referred to to warrant the Government in asking the House to give special authority to deal with the difficulty, especially when there was a Bill before the House which would do all the hon. member desired.

The HON. W. H. WALSH said he understood the Postmaster-General to state that there was a Bill before the other Chamber bearing on this question, and that amongst its provisions was one to effect the destruction of this noxious weed. Well, could the hon. gentleman say what this noxious weed was like, or show that the Government knew anything at all about it? It was a new plant to him (Mr. Walsh), and could the Postmaster-General say he knew what the weed was that the Government had it in contemplation to extirpate? If not, the most of his remarks were nothing more than the official platitudes usually served up to members of that Chamber. The hon. gentleman should not rely so much upon his ability to give satisfactory answers upon all questions. He should endeavour to cure himself of what appeared to be the growing evil of giving evasive answers. His reply to the Hon. Mr. Box was one of those specious generalities such as they should not get in that Chamber. He (Mr. Walsh) agreed, however, with the Postmaster-General that the opinions of quasi-

scientific men were not always to be relied on. He considered that the papers of the House teemed too much with them already, and the less they relied on them the less likely they would be to go astray. He thought the Hon. Mr. Box deserved credit for bringing the matter forward, and it might be the means of inducing the Government to take some steps to rid the country from this possible plague.

The Hon. F. T. GREGORY certainly felt obliged to the Hon. Mr. Box for the prominence he had given to this subject, because they had already had the country overrun with two very serious evils because they were not taken in time. The hon. gentleman's object was to prevent what was now a very minute evil becoming a very serious one. There was nothing like nipping such an evil in the bud. The question, however, in this case was, what steps could the Government take consistent with their functions? He thought it would not be outside the reasonable functions of the Government to instruct a suitable officer to make such inquiry as would show whether any great danger was to be apprehended from this plant. If it was found that there was great danger, it would then be the duty of the Legislature to say what steps should be taken to stamp the pest out. He hoped the Government would take steps to get a thorough report on the subject which would satisfy them that it was either a false alarm or a danger which prompt measures should be taken to suppress.

Motion for adjournment withdrawn, by permission.

RETURN.

The Hon. W. H. WALSH moved—

That there be laid upon the table of this House,—

A Return to date, accompanied by tracings showing the Lands Resumed, or proposed to be resumed, for Railway purposes, in connection with the construction of the Warwick and Stanthorpe, Maryborough and Gympie, and Bundaberg and Mount Perry Railways.

Such Return to show whether such lands are freehold or otherwise; the Owners, or Reputed Owners, or Agents, treated with; the prices respectively demanded by said Reputed Owners or Agents; the awards, if any, of the Government valuator, showing also the prices paid, or agreed to be paid, by the Government.

He said he believed there would be no objection on the part of the Government to furnish this return, which would be a valuable one, and he need not therefore trouble the House with his reasons for moving for it.

Question put and passed.

ABSENCE OF MEMBER.

The PRESIDING CHAIRMAN said he had received a letter from the Hon. T. L. Murray-Prior, stating that he was very unwell and not likely to be able to attend in his place for a short time.

INSANITY BILL—COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the House was put into Committee to consider this Bill in detail.

The POSTMASTER-GENERAL, in moving clause 1—short title and division—said, before entering upon the consideration of the various clauses of this important measure he desired to call the attention of the House to a few amendments which he intended to move himself, and which were chiefly of a verbal character. One was, that instead of the word "Colonial Secretary" he intended to use the word "Minister," and then to define "Minister" to mean "the Colonial Secretary or other Minister of the Crown charged with the administration of this Act." Another amendment, which was not merely a verbal one, was in the 28th clause, on which

there had been already considerable discussion. As printed, the Bill provided—

"The Governor in Council may appoint for every asylum a superintendent, who shall, unless there is a medical officer resident in the asylum, be a medical practitioner, and also an assistant superintendent, and such other officers as he deems necessary."

He intended to move that the words "unless there is a medical officer resident in the asylum" be struck out, so that it would necessitate that the superintendent of every asylum should be a qualified medical practitioner. This he had ascertained to be in conformity with the most modern practice in England, France, America, and elsewhere. It had been found that in all cases where the superintendent was not a medical man these institutions were not governed as they ought to be. While on this subject he would call attention to some amendments which had been placed in the hands of hon. members by the Hon. Dr. O'Doherty. To the first of these he offered no opposition; but with regard to the others, which related to the government of asylums, he should require time for further consideration; so that if they arrived during the present sitting as far as clause 33, he should move the Chairman out of the chair with a view to take further time for the consideration of these very important clauses. In clause 43, he should also move an amendment by which foreigners in our asylums might be removed from the colony. The object he had was chiefly to meet the case of Chinese, large numbers of whom were in our lunatic asylums and reception-houses, and whom he did not think the colony should be called upon to permanently maintain; and it would be a very good thing indeed if they could send them to their own country. Any suggestions hon. gentlemen might have to offer that did not interfere with the principles of the Bill he would be willing to receive.

Clause put and passed.

Clause 2—Repeal of existing Acts—put and passed.

Clause 3—Interpretation of terms—was agreed to with a verbal amendment and the insertion of words defining "Minister" to mean "the Colonial Secretary or other Minister of the Crown charged with the administration of this Act."

Clause 4—Insane persons in indigent circumstances, without sufficient means of support, or wandering at large, may be apprehended—moved.

The Hon. W. H. WALSH thought the provisions requiring that the supposed insane person should be brought before two justices should be more clearly defined.

The POSTMASTER-GENERAL explained that the clause was merely preliminary to the case being heard before two justices, for which provision was made in subsequent clauses. There was no authority for a single justice to deal with the case at all. This clause was precisely the same as in the New South Wales Act, and he thought it was ample for all purposes.

The Hon. W. H. WALSH said he only wished to have the law laid down so that it might not be misunderstood. Although clauses 5 and 6 referred to two justices, he saw that in clause 7 one justice had power to act.

The POSTMASTER-GENERAL said that was a clerical error which would be rectified.

Clause put and passed.

Clause 5—Persons deemed to be insane if not taken care of or if cruelly treated—put and passed.

Clause 6—Course to be pursued when insane person is brought before justices—moved.

The HON. K. I. O'DOHERTY said this was one of the clauses which he ventured to take objection to at the time of the second reading of the Bill. It seemed to him that the intention of the clause was excellent, being evidently to make it as certain as possible that the best medical testimony would be procured by having a supposed insane person examined by two medical officers apart from one another. He was still of opinion, however, from his experience in these matters, that the effect of preventing consultation between medical men, in difficult cases, would be calculated more to defeat the purpose intended than the contrary. He had therefore prepared the following amendment :—

"That paragraph 1 of clause 6 be omitted, with a view to insert the following :—

"6. The justices before whom any person is so brought shall call to their assistance two medical practitioners who have—

"I. Been furnished by the justices with all the information previously obtained, in writing, with respect to the condition of such person ;

"II. Examined him with all due care, either apart or together, and consulted with respect to his condition (if necessary) ; and

"III. Severally signed separate certificates with respect to him according to the form in the second schedule to the Act ;

and if upon examination of such person and the medical practitioners, and upon other proof (if any), the justices are satisfied that he is insane, and "

There were three points in this : First, that the medical men called upon by the justices should have placed before them, prior to examining the patient, all the evidence taken up to that time by the justices, which would consist of evidence given by those who had been witnesses of the presumed insanity of the patient. He held that to be a great security to all parties that proper and due care would be taken to make certain that the patient was really insane ; because under existing arrangements medical men were called upon to examine patients without having any information whatever laid before them, and they were thus placed at a very great disadvantage. This would prevent the possibility of that in the future. With regard to the second point, he held it was of great importance that the medical men examining a patient should be allowed to consult. In many forms of insanity such consultation would not be required, because the lunacy would be so apparent that there could be no question about it ; but there were phases of lunacy which required not only that the medical men should have all information placed before them, but also the exercise of great skill on their part to bring out the evidence of insanity, and in such case consultation between the medical men would be of the greatest importance ; while the signing of separate certificates would be a further security that no injustice would be done.

The POSTMASTER-GENERAL said he had already stated that he was willing to accept this amendment, but he found that there was considerable difference of opinion in the House with regard to it, and he thought that an alteration in the original clause, so as to include the first subsection of the Hon. Dr. O'Doherty's amendments, would effect all that was desired. He found there was a strong feeling amongst members that it was a very desirable provision that the medical men should examine the patient apart from each other. That provision had been adopted in New South Wales after a great deal of deliberation ; the Bill was referred to the highest authorities in England for examination, and this system of two medical men being required to examine a patient apart from each other was deliberately adopted as the most proper and effective method of ascertaining whether the person was really insane or not, and as a safeguard against persons being com-

mitted to an asylum without sufficient evidence. It had been pointed out that in some parts of the country it would be impossible to get two medical men to examine a patient, but in such cases a patient would, in the first place, be sent to a reception-house, and after having been there a short time he would be further examined by the surgeon-superintendent and some other medical practitioner, and on their certificate, after separate examination, the insane person would be finally committed to the asylum. Or, if he were not sent to the reception-house, he could, under clause 16, be sent to the hospital or gaol, upon the certificate of one medical practitioner alone ; so that there were two means of taking charge of insane persons where the evidence of two medical men could not be obtained. He thought the clause, with the amendment he had indicated, would meet all that was desired, and if the Hon. Dr. Hobbs would move that amendment he would be prepared to accept it.

The HON. K. I. O'DOHERTY said before the question was put he wished to explain that his main objection to the clause as it stood was not so much against the medical men examining patients apart as the absolute rule being laid down that there should be no consultation between them. He had not the slightest objection to them examining a patient separately, but he did insist that it would be a wise provision to give an opportunity to those gentlemen to consult together before their individual decision was formed with regard to the case. He maintained that consultation in many cases would be a great aid to the administration of justice in such cases.

The HON. W. HOBBS said he had had a great deal to do with the working of the Insanity Act during the last few years, and he was not aware of any circumstances that called for any change from the ordinary practice. Generally speaking, as matters were conducted now, the doctor who examined the patient afforded the magistrates all the information, and not the magistrates the doctor. He preferred that the Bill should remain in this respect as it had stood during the last twenty years. It had worked uncommonly well ; they had never heard of any false confinement, or any cruelty or neglect : the colony had been free from anything of the sort, and he thought it should require something of that kind to necessitate a change from the present mode of procedure. In some parts of the colony medical men had great difficulty in getting information ; all they could obtain in most cases was from the apprehending constable, who could only tell a story to the effect that he found the patient wandering about ; and he (Dr. Hobbs) could not see what was to be gained by the medical men examining the patient separately. He would much prefer that they should be allowed to examine him together as heretofore. If they began to alter the law as it now stood, it would require so many alterations that it would take a very long time. The Hon. Mr. Cowlishaw had had experience upon the Bench, and he did not think that that hon. gentleman could point to any difficulty in the working of the Act as it now stood.

The HON. W. H. WALSH said he did not understand whether the hon. gentleman who had just spoken was in favour of the law at present in force or in favour of the Bill as it stood without any amendment at all. He was at a loss to know what the hon. gentleman meant ; but, as far as that was concerned, he did not think there could be any Act in existence which could not be improved upon. The hon. gentleman said there had been no complaints made during the last twenty years ; but he (Mr. Walsh) did not know how complaints could be

made under the present circumstances. If the hon. gentleman could say that every opportunity was given, and had been given in past times, for making complaints, then he would prove his case; but, from his (Mr. Walsh's) recollection of inquiries that had been made into the working of our asylum, the reason why complaints had not been brought home was because nobody who could prove them was prepared, under the penal consequences attending his making such complaints, to make them openly. From his knowledge of the Woogaroo Asylum, complaints were constantly being made, either directly or indirectly. If a warder made a complaint that a patient was there who ought not to be there, or on any other subject, they knew what would happen. They knew that the doctors would not make such a statement, and either from indolence or indifference they allowed patients to remain there months and months when they should not have been there; and they were not likely to make complaints because they would condemn themselves. He did not hesitate to say that, under the present system, lunatics did not get fair play; and he was a rash man who, under the present circumstances, would attempt to defend that system, especially if he were an official. He trusted the Hon. Dr. O'Doherty would persist in the appointment of a commission who should have charge of all the lunatics in the asylum—that it should not be left merely to the officials in the asylum or any single member of the Ministry. He should not have spoken, only if he had remained silent he should have appeared to give a tacit consent to the Hon. Dr. Hobbs' statement that no complaints had been made. They had been made, and warders had been removed either openly or surreptitiously for making complaints. So long as Woogaroo Asylum was virtually placed beyond the reach of public inspection by being kept ten or twelve miles away from the metropolis—so long as that existed, he did not care what sort of charge it was placed under, there was sure to be a certain amount of neglect; and he thought one of the most important duties of the Government in connection with the management of lunatics was to provide for the custody of these people within the precincts of a large town such as this, where they could be visited by their friends and others who were desirous of doing them good. He believed that the very best Bill they could possibly frame, so long as inspection on the part of the public and the Press was virtually denied, would be set at naught and fall short of its intentions.

The Hon. J. COWLISHAW thought the reason given by the Hon. Dr. Hobbs why patients should not be examined separately was a strong reason why they should be. If he understood the hon. gentleman correctly, he said the only evidence that could be got in many cases was that of the apprehending constable; but, surely, medical men would not certify a man to be mad on the evidence of a constable, and he thought the fact of their having simply that evidence to guide them should necessitate their examining the man separately and satisfying themselves as to whether he was sane or not. The Postmaster-General had stated that it had been found from experience at home that it was very desirable in all cases that patients should be examined separately, and he believed that to be the case. They knew pretty well that in years past, especially as far as private asylums were concerned, the abuses which crept in through joint certificates of medical men being acted upon; and the practice here, at any rate in years back, had been for one medical man to examine a patient and the other to simply countersign the certificate, after having merely looked at the man and put one or two questions to him, and on their certificate the man was sent to a reception-house or the asylum. He

therefore held that it was very desirable that the clause as it stood in the Bill should be retained.

The POSTMASTER-GENERAL said that as the clause stood there was no reason why the medical men should not consult. It only prescribed that they should make their examination apart from each other.

The Hon. K. I. O'DOHERTY said he claimed nothing more than that. Instead of the Hon. Dr. Hobbs opposing his amendment because it did not sufficiently provide for the separation of the medical men, that hon. gentleman had stated directly the opposite—that his experience, extending over a long period of years, was entirely in accordance with his (Dr. O'Doherty's). He thought the statements of the Hon. Mr. Cowlishaw were rather unjust, because he did not believe that such a thing had happened as any medical man acting in the manner the hon. gentleman described. As he had previously said, some cases did not require consultation, the insanity being so palpably evident; but in other cases it was absolutely essential, and if he could see that under the original clause consultation would be permitted he could not object to it.

The POSTMASTER-GENERAL said that under this clause no person could be sent into an asylum until he had been examined by two medical men apart from each other; but these two medical men might consult either before or after the examination. It did not require them to do so, but merely that they should make their examination separately, and that each should sign his own certificate.

The Hon. K. I. O'DOHERTY said that if the clause as it stood would justify consultation, he had no objection to it with the addition of the first part of his amendment.

The Hon. C. S. D. MELBOURNE said he could not speak with the experience of the Hon. Dr. O'Doherty or Dr. Hobbs, but he had had twenty years' experience in his profession, and knew something with respect to the working of our lunacy laws; and he could not help thinking that if this Bill became law it would be a most valuable Act. It would afford not only protection to persons who were not protected under the statute, but provide for the safe administration of the property of those colonists who were unfortunately required to be kept in security, and whose cases were intended to be met by this measure. The clause under discussion, he understood, had been taken from the New South Wales Act; originally it was taken chiefly from the English statute, and portion of it from the Victorian statute; and having a precedent like this before them, he should be rather inclined to follow it than to alter the clause upon mere surmises which were not borne out by the reading of the clause itself. Under this clause, if two medical men were called in and they differed as to the sanity or insanity of a patient, two more could be called in, and so on until the question was settled. Again, there was nothing to prevent medical men from consulting; it was optional, but if it were made compulsory very great inconvenience and difficulties would arise, and he must decline to support the amendment.

The Hon. K. I. O'DOHERTY said, after the opinions they had heard expressed, he should be glad to accept the clause as proposed to be amended by the Postmaster-General.

The clause was then amended by the insertion of a provision to the effect that the medical practitioners examining a patient should be first furnished by the justices with all the information previously obtained, in writing, as to the condition of the patient; and agreed to, with other verbal amendments.

On the motion of the POSTMASTER-GENERAL, the Chairman then left the chair, reported progress, and obtained leave to sit again to-morrow.

The House adjourned at 6 o'clock, until the usual hour to-morrow.
