

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 15 SEPTEMBER 1881

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LEGISLATIVE COUNCIL.

Thursday, 15 September, 1881.

Messages from the Governor.—Message from Legislative Assembly.—Thomas Railway Bill—second reading.—Municipals Destruction Bill.—Appropriation Bill No. 2—second reading.

The PRESIDENT took the chair at 4 o'clock.

MESSAGES FROM THE GOVERNOR.

Messages were read from the Governor, intimating that His Excellency had given the Royal assent to the Pearl-shell and Béche-de-mer Fishery Bill, and had reserved the Intercolonial Warrants Bill for the signification of Her Majesty's pleasure thereon.

MESSAGE FROM LEGISLATIVE ASSEMBLY.

A message was received from the Legislative Assembly intimating that, in accordance with the request of the Legislative Council, permission had been given to the Hon. J. M. Macrossan to attend and be examined before the Select Committee of the Council on the proposed extension of the Central Railway and the construction of various branch lines.

THOMAS RAILWAY BILL—SECOND READING.

The POSTMASTER-GENERAL (Hon. B. D. Morehead) said he really had very little to say in regard to the Bill, as it was nearly a counterpart of a private Bill passed last session by Mr. James Gulland. Only one alteration had been made, and that was in subsection 3 of clause 4, the reason for the alteration being, as stated by the Minister for Works in the other Chamber, that it was considered to give a colourable right to Mr. Thomas to carry other goods than coal. The railway was to be constructed only for coal-carrying, and hon. gentlemen were asked simply to re-enact for the benefit of another individual what was enacted last session for the benefit of Mr. Gulland. He believed there would be no opposition to the second reading, especially as he had not heard that there were any defects in the Gulland Act. If there were, however, they could easily be amended in the present Bill when it went into committee. Such being the case, it was hardly necessary for him to say anything more about the Bill at present. He would therefore move that it be read a second time.

The Hon. T. L. MURRAY-PRIOR rose to a point of order. There was a Standing Order in existence which provided that, whenever resolutions calling for the sanction of Parliament for the construction of railways were introduced, they should be first referred to a select committee. It appeared to him that the present Bill, although for a private railway, ought to come under that Standing Order.

The POSTMASTER-GENERAL said that if the hon. gentleman would read the Standing Order he would see that it was not applicable in the present instance. The Standing Order referred to resolutions, whereas this was a Bill which had passed the Lower House, and certainly it did not come within the meaning of the word "resolution." The Standing Order was only intended to meet the cases of resolutions forwarding plans, sections, and books of reference of railways, and had no application to a Bill like the present. In fact, if hon. members would look at the 2nd clause of the Bill they would see that it could not apply, because it was there stated that—

"Subject to the provisions of this Act, Lewis Thomas shall and may, with all convenient speed, con-

struct in a substantial manner, and in accordance with plans and books of reference to be approved by Parliament, a branch line of railway connected with the Southern and Western Railway."

It would therefore be seen that this was merely a preliminary Bill, and that the plans, sections, and books of reference would come before the House in due course. Under these circumstances, he hoped that the Hon. Mr. Murray-Prior would withdraw the objection he had raised.

The Hon. T. L. MURRAY-PRIOR said that after the explanation of the Postmaster-General, and seeing that the plans, sections, and books of reference of the railway would have to come before the House in due course, he considered that the Standing Order did not apply to the Bill, and he would therefore withdraw his point of order.

The Hon. W. H. WALSH rose to a point of order. This was a matter of more importance than hon. members seemed to consider. It was not a question as to whether Mr. Thomas should be obstructed in the working of a railway, but whether the interests of the public generally—

The PRESIDENT: Will the hon. gentleman be good enough to state his point of order?

The Hon. W. H. WALSH: The point of order is that the Bill has not been properly introduced, and I shall give my reasons for saying so before I sit down.

The PRESIDENT: I must ask the hon. member whether it is a fresh point of order, because, unless it is, I must tell him that the point previously raised has been settled.

The Hon. W. H. WALSH: It is withdrawn; not settled.

The PRESIDENT: Do you rise to some point of order?

The Hon. W. H. WALSH said he raised the point of order that the Bill was irregularly before the House, and in discussing that point he was afraid that he should have to trespass longer upon the time of the House than he had at first intended. It was absolutely necessary that certain forms should be adopted by both Houses. Those forms were generally laid down in the Constitution Act and in the Standing Orders—more than one of which provided that a private Bill should be initiated in a certain way. To go beyond their Standing Orders, he might refer to the practice of the House of Lords, which they took as a guide when their own Standing Orders failed; and in the House of Lords, under no circumstances, as far as his knowledge went, was a private Bill allowed to be discussed on a second reading until it had been before a select committee of that House. They had specially to guard against private individuals hastily gaining the permission of majorities which they could command in either Chamber for initiating railway proceedings. Some time ago, at the instigation of the Hon. Mr. Gregory, they passed a very important and valuable Standing Order concerning the introduction of railway schemes, and he trusted that the hon. member would himself religiously defend it: and that was, that whenever resolutions asking for the sanction of Parliament for the construction of railways were introduced, they should lie on the table a week and then be referred to a select committee. All private Bills also, under the most specific Standing Order had, before being read a second time, to go before a select committee for approval or otherwise; but that had not been done in the present instance, and he thought, therefore, that the Hon. Mr. Murray-Prior was perfectly justified in calling the attention of the Chamber to its duties, and he might say to its rights. There might be no immediate necessity for the Bill being read a second time that day,

unless some one in that Chamber, for private reasons, wished to serve Mr. Thomas, which he could hardly imagine. He could not understand why the forms of the House should be set aside for the purpose of dealing with a private Bill, which the Postmaster-General would pardon him for saying he, as a member of the Government, had no business of being in charge of. He attributed nothing to the hon. gentleman for doing so; but he simply said that a private Bill brought before that House ought not to be generally managed by a member of the Government. Having said so much, he hardly considered it necessary to say any more; but he insisted that if the system now adopted was allowed to prevail there would be gross infraction of the forms in which private Bills ought to be dealt with in accordance with the Standing Orders of the House. Probably the public, who were well aware of the Standing Order to which he referred—that all Bills of that nature should be introduced in committee—might, seeing what was being done in the Chamber—which he contended was the most representative Chamber in the colony—be relying on that Chamber to defend it from that measure. That might or might not be so, and probably there might be interested persons outside who were anxious to see Mr. Thomas get his Bill passed. He had not the least objection to that, but he had great objection to seeing one of the most important forms of the House set aside for the purpose of facilitating the passage of a Bill of a private nature. He would repeat that he objected also to see a Minister of the Crown take upon himself the responsibility and duty of carrying through the Bill, which was strictly one for the benefit of a private individual. His point of order was that the Bill had been wrongly introduced, and that it should first of all have been referred to a select committee, in accordance with their Standing Orders.

The POSTMASTER-GENERAL, in speaking to the point of order, said he might mention, with reference to the remarks which fell from the Hon. Mr. Walsh, that he was quite aware of the responsibility of introducing this Bill. Towards the close of last session, when the Gulland Railway Bill had passed, Mr. Thomas applied to get his Bill through the Lower House. The session had gone too far; but the Minister for Works told Mr. Thomas that he might go on with his railway—which he (the Postmaster-General) believed was now almost completed—and the Government would next session introduce a Bill putting him in the same position as Mr. Gulland. That was the whole position so far as this Bill was concerned. The Government had accepted the responsibility, and, of course, were responsible for the Bill. It had been introduced by the Government, and therefore the Government would do all they could to enforce it if it became law. Under the circumstances he was bound to accept the responsibility of the Bill, and he did not shrink from it.

The Hon. F. T. GREGORY said this was a matter of some importance, which would affect the action of the Council in the future as well as the present. He might say that he had not the slightest objection to the Bill, and would be sorry if it were not carried. At the same time, they should not ignore the Standing Orders of the House. He confessed that when this Bill was introduced he was under the impression that it was a private Bill, which might not come under the category of the Standing Order pointed out by the Hon. Mr. Murray-Prior, and introduced on the 25th September, 1879; but with the new light thrown upon it by the Postmaster-General, who treated it as a Government measure introduced by the Gov-

ernment, he now thought that it unquestionably came under the Standing Order, simply because it was a Government measure. If it were a private Bill, it would come under the 85th Standing Order, referring to private Bills:—

"Every promoter of a private Bill shall, at least ten days before the same is set down for the second reading, furnish to the Clerk of the Parliaments attested copies of all plans, sections, books of reference, estimates, and subscription contracts, or declarations in lieu of subscription contracts laid before the Legislative Assembly, in pursuance of the Standing Orders of that House, and the Clerk of the Parliaments shall give a receipt for the same, in which the several documents shall be distinctly specified, which receipt the member having charge of the Bill shall produce to the House before the Bill is set down for the second reading."

After the statement made by the Postmaster-General he certainly could not see his way, but he certainly thought it came under the Standing Order in question—that was, the one calling for plans, sections, and books of reference to be laid before the House. If it were a Government Bill they ought to have these plans, etc., for in an ordinary sense a Bill was a resolution brought in the shape of a Bill. At the same time, it was quite possible that the legal reading might be different, but the plain, common-sense view was that the Standing Order should apply in the same way as if it were a public railway.

The Hon. C. H. BUZACOTT said he did not understand the point of order. It seemed to him that, before the railway was carried out, the Bill required that plans should be laid before the House in the same way as in any other railway. This Bill stood in the same position as the Railway Acts in regard to the construction of railways carried out by the Government. How the Hon. Mr. Gregory could apply the 85th Standing Order in the way he had, he (Mr. Buzacott) did not understand. Surely the hon. gentleman had been long enough in that House to know that Bills could not come under the Standing Order applying to resolutions of the House. As to private Bills, if hon. gentlemen would turn to the clause relating to private Bills it would be seen that the 70th Standing Order, which was very plain, provided that—

"Every private Bill sent up from the Legislative Assembly, if accompanied by a printed copy of the report and proceedings of the select committee of that House, to which it shall have been referred, shall be dealt with in the same manner as a public Bill, and shall not be referred to a select committee of this Council unless the same shall be opposed, and then only by motion, on notice to be made before the second reading."

Well, that showed that the fact of a Bill being sent up from the other House was material. This Bill had not been sent up as a private Bill; it had been sent up as a public Bill.

The Hon. W. H. WALSH: The hon. gentleman has certainly not read that fairly.

The Hon. C. H. BUZACOTT said if they did not like the Bill as it stood they could throw it out, but it most distinctly came from the Legislative Assembly as a public Bill, with the usual message:—

"This public Bill originated in the Legislative Assembly, and, having this day passed, is now ready for transmission to the Legislative Council for their concurrence."

He might also point out, with regard to this Bill, that the same course was being carried out as in the case of the Gulland Railway Bill; and he certainly saw no reason to obstruct its passage on this point of order.

The Hon. C. S. MEIN said he had not had the advantage of hearing the point of order raised, although he had heard the latter part of the discussion. He must say that the observations which fell from the last speaker had not

impressed him with the idea that there was nothing in the objection raised. On the contrary, they left him in the opinion that the objection taken to the manner in which this Bill was introduced was a sound one. There was certainly no logic in the hon. gentleman's statement. If it meant anything it meant this: If the Legislative Assembly did not treat it as a private Bill, *ergo* it must be a public Bill. He thought, if the Legislative Assembly made a mistake they ought to correct it; they were certainly not going to treat as absolutely correct everything that the Assembly did or did not. If they inquired what was the definition of a private Bill, he thought it would be found that this came within the meaning of the definition. What was the object of it? It was for the benefit of a private individual. If the railway whose construction it provided for were required for any public purpose, there would be no necessity for a Bill of this description. It would be simply necessary for Parliament to have the plans, sections, and books of reference laid before them for consideration. The plans, when approved of by the other Chamber, would be sent up to this House, and when the money was voted the railway would be constructed; but this Bill was for the construction of a railway by a private person who had to bear the whole cost of construction, and who was also to get the whole benefit of it. The object of the Bill was to enable Mr. Lewis Thomas to connect his mine by a railway with the public markets, and to make use of a certain portion of the public lines to enable him to have running powers over it. The whole cost of construction would be borne, and the benefit—or the bulk of the benefit—derived from the making of the line would be gained by the person who constructed it. The justification for asking Parliament to authorise the construction was that the public would derive an indirect benefit by the development of an industry, and by facilities being given to the public to use the line when not actually used by its constructor. With regard to the principle of the Bill, he entirely agreed with it; but, going on the strict interpretation of the law and the rules of Parliament, he thought this was a private Bill. This was what "May" said:—

"Every Bill for the particular interest or benefit of any person or persons is treated in Parliament as a private Bill. Whether it be for the interest of a private individual, a public company or corporation, a parish, a city, a county, or other locality, it is equally distinguished from a measure of public policy, in which the whole community are interested; and this distinction is marked by the solicitation of private Bills by the parties themselves whose interests are concerned. By the Standing Orders of both Houses all private Bills are required to be brought in upon petition; and the payment of fees by the promoters is an indispensable condition to their progress."

The POSTMASTER-GENERAL: Was the Gulland Railway Bill dealt with in that way?

The Hon. C. S. MEIN said it was not treated as a private Bill, because no exception was taken to it; but the Hon. Mr. Walsh, who, they would all agree, was an authority on parliamentary and constitutional law, had raised the objection here. He (Mr. Mein) would repeat that he did not see any objection to the principles of the Bill, and would be glad to see it become law and to give every facility for the construction of works of this description; but as the question had been raised they were in duty bound to correctly decide upon it. Whether they would consent to suspend the Standing Orders was another question; but any person considering the Standing Orders and the law of Parliament could not come to any other conclusion than that the Bill was private in its character.

The PRESIDENT said: It seems to me that this Bill has been introduced into this House as

a public Bill in the regular manner, and the objection taken to its passage—that is, that the plans, sections, and books of reference have not been laid on the table of the House in accordance with the Standing Order of the Legislative Council, moved on the 24th September, and approved on the 2nd October, 1879—does not apply, in my opinion, because this is a Bill, and the Standing Order refers to resolutions, and this Bill also refers to plans and books of reference which are hereafter to be approved or otherwise. In my opinion there is nothing irregular in the form of procedure up to this point.

The Hon. C. H. BUZACOTT, in speaking on the second reading, said there was one observation he would like to make with regard to the second clause of the Bill. It seemed to him that this clause gave rather too much power—

"Subject to the provisions of this Act, Lewis Thomas shall and may, with all convenient speed, construct in a substantial manner, and in accordance with plans and books of reference to be approved by Parliament, a branch line of railway connected with the Southern and Western Railway."

He thought in a clause of this kind some description of the line should be given. Of course they had the security that the plans would have to come before the House; but, at the same time, he thought it would be better if something were said to fix the position and locality of the railway. In other respects it seemed to him that the Bill was almost precisely the same as the Gulland Railway Bill which passed last session. This was not a Bill of private interest simply. The 8th clause said:—

"The said Lewis Thomas shall carry upon the branch line, free of charge and with reasonable despatch, all such persons and mails as the Commissioner from time to time requires to be conveyed on the public service."

Upon that ground he thought that the Bill might fairly be considered a public one.

Question—That the Bill be read a second time—put and passed, and the commitment of the Bill made an Order of the Day for Wednesday next.

MARSUPIALS DESTRUCTION BILL.

On the motion of the POSTMASTER-GENERAL, the House resolved itself into a Committee of the Whole for the consideration of this Bill.

The Hon. C. S. MEIN said that, before the House went into a discussion on this Bill he wished to remark that as there were a large number of officials in the two Chambers, hon. members ought therefore to get their papers with a little more promptitude. He himself did not get the report of the Joint Parliamentary Buildings Committee until he went home yesterday afternoon, and had not had an opportunity of seeing it before coming to the House. It was the same with other Bills. They had often been set down for the second reading before they were in the possession of hon. members. He did not see why they should not get the papers almost as expeditiously as the hon. members of the Legislative Assembly, and he thought it quite time that the officials should be stirred up to do their duty.

The POSTMASTER-GENERAL said he must say he agreed with almost every word that had fallen from his hon. friend Mr. Mein. There was no doubt that the messengers had little to do, and it appeared to him that they neglected to do even that. Some change must be made, and would have to be made.

The Hon. W. H. WALSH said he was hardly prepared to attribute the whole blame to the

messengers. He thought there was somebody above them who should see that these papers were distributed. It was very easy to blame the messengers, but he should rather think the clerks of the Chamber were responsible.

The POSTMASTER-GENERAL said that of his own knowledge he was quite certain that the clerks did their duty. They could not follow the messengers to see that they did their work, and surely it was not the clerks' duty to hand round the amendments of the Marsupial Bill to hon. members? That was the messenger's duty. He was perfectly certain, from his own knowledge, that there had been no negligence on the part of the clerks.

The HON. W. H. WALSH said that where there was negligence of this kind he did not think it was right to strike at the lower officers of the Chamber, unless the House was convinced that they were in the wrong. The clerks could address themselves to any hon. member; whereas, if anything were said against the messengers, they had not the same privilege of defending themselves. He thought it would be better to complain of those whose primary duty it was to see that the papers were delivered.

The HON. C. H. BUZACOTT said that in this particular instance neither the clerks nor the messengers were to blame. If anybody was to blame it was himself, as he had not got his revised amendments until that afternoon, and they were not in the House till after that. It was usually not the practice for the messenger to distribute amendments till the Bill was distributed. It was usual when the Bill was put into committee for the messenger to bring round the Bill and the amendments they were about to deal with.

The preamble was postponed.

Clause 1—"Interpretation."

The HON. W. H. WALSH said he should like to know the reason for allowing this Act to lapse at the expiration of three years. He hoped that the pest would be destroyed in that time, but thought it would be much better if the Act were made a perpetual one, for if the pest still existed at the expiration of that time, they would have to have recourse to fresh legislation on the subject; and who knew but that influence of sufficient power might be brought to prevent fresh legislation? He would much prefer seeing the Bill a permanent one.

The POSTMASTER-GENERAL said it would be much better to allow the clause to stand as it was, for if it were altered he was certain that it would imperil the passage of the Bill elsewhere. It would be competent for Parliament, at the end of 1884, to introduce a short Bill giving every necessary permanency to the measure.

The HON. C. H. BUZACOTT said he should support the clause as it stood. The Bill would be an enormous expense to the country, and the subsidy would seriously inconvenience the Treasury. It would be wise, therefore, to limit its duration to a certain definite time.

The HON. J. F. McDUGALL said he would also support the clause as it stood. To have made the Bill operative for less than three years would have been of little use; and he trusted that to make it perpetual would be unnecessary. There was always some objection to the imposition of any new taxation, and he trusted that at the end of three years the evil which the Bill was introduced to meet would be largely diminished.

The HON. T. L. MURRAY-PRIOR said that if it were required to renew the Bill at the end

of 1884 that could easily be done by a Bill of one clause. He should support the clause as it stood.

Question put and passed.

On clause 2—"Interpretation"—

The HON. W. H. WALSH said he objected most strongly to the words "or appointed" in the line "the marsupial board to be elected or appointed for any district hereinafter defined." Those boards stood in the position of representative boards of a district, and they ought to be restricted to persons qualified for doing so. If the clause was approved of in its present form, he could plainly see the danger that would arise. He objected to any person being allowed to sit upon a board to determine what rates should be collected in a district and how they should be expended, unless such person were elected by the inhabitants of that district. By some neglect of the clerk in charge of an election, or by some other mistake, it might happen that no election would take place; and then, for a district which might be thousands of miles away, the Minister in charge of the department might appoint a resident of Brisbane or any other town in the colony to administer the affairs of that particular district. That was wrong, and he trusted the question would receive consideration. He could foresee the time when, through some *laches* of the officer who had to comply with all the requirements necessary for the election of members of the board, that there would be no election, and then it would devolve upon some future Government or Minister to nominate the members of the board. Further down the Bill was a clause providing that, when a Minister had to appoint members of the board, he was not bound by the requirements of a district, nor was it necessary that the members so appointed should be either squatters or interested in any way in the evil which the board was appointed to contend with. He could appoint anybody he liked, even if he was most adversely inclined to the very interests that he was called upon to serve. No doubt the Government would place their own nominee upon the board. It was of the utmost importance that the Act should be managed by those who were deeply interested in it. Clause 6 provided—

"When no board, or an insufficient number of members to constitute a board, has been elected for any district, the Governor in Council may appoint fit and proper persons to be members of the board of such district, whether possessed of the aforesaid qualification or not."

It was just possible that influential persons in any district might take care that no board was duly elected; and those influential persons having the ear of the Government, might suggest that the police magistrate, or the native police officer, or the clerk of petty sessions, or even their own tradesman should be appointed as the Government nominee to administer the Act, in which they were not interested in the expenditure of one farthing. They might just as well expect the Government to nominate as a member of the district board of, say, Springsure, some persons living in Brisbane, Ipswich, or Toowoomba; the two cases would be quite analogous.

The HON. C. S. MBIN said that although on most occasions he agreed with the Hon. Mr. Walsh, yet he must strongly dissent from the position that hon. gentleman had now laid down. It would simply result in defeating the Bill in districts where the pastoral tenants were opposed to its introduction. They might refuse to elect the members of the board, and then there would be no power of enforcing the Bill in that particular district. With regard to the Local Government Bill, if the residents of a district did not elect a board to look after their own

local affairs, the Governor in Council could appoint members of the board. Persons wishing to get on the marsupial board could easily do so, and if they failed in the performance of their duty, the country could not suffer from their negligence.

The Hon. W. H. WALSH said he did not move the omission of the words as an amendment of the clause. He simply mentioned it to show that it was worthy of consideration.

The Hon. C. H. BUZACOTT said he had an amendment to propose. It had often been found inconvenient to specify in an Act the particular Minister of the Crown by whom alone such Bill should be administered. In the present Bill it was laid down that it should be administered by the Colonial Secretary only. It would be far better to leave the administration of the Act to any Minister who, through the arrangements of his colleagues, might have the time at his disposal, or who might be better acquainted with the object of it than the Colonial Secretary for the time being. The present Colonial Secretary was thoroughly well up in the question, and so long as he remained in office the administration of the measure would not probably be taken from him. Still, it would be well to leave it open for the Administration of the day to appoint whatever Minister they thought most fitted to take charge of the administration of the Act. He would, therefore, move the insertion of the following new definition:—

"Minister"—The Colonial Secretary or other Minister of the Crown for the time being charged with the administration of this Act.

The POSTMASTER-GENERAL said he should offer no opposition to the amendment.

Amendment put and passed, and the clause, as amended, passed.

The Hon. W. H. WALSH asked the Postmaster-General if he would recommit the clause which had just been passed, in order to enable him to insert the words, "or kangaroo rat." His attention had been called to the fact that the farmers were more injured by the depredations of kangaroo rats than by the larger marsupials.

The POSTMASTER-GENERAL said he did not feel inclined to do anything of the kind, and he should object strongly under any circumstances to the insertion of the words. They might as well introduce the words "miniature marsupial mouse."

Clause 3—"Boards to be appointed"—was passed after being amended, on the motion of the Hon. C. H. BUZACOTT, by the insertion of the word "Minister" in place of the words "Colonial Secretary."

On clause 4—"Election of cattle-owners"—

The Hon. C. H. BUZACOTT said that, although the clause provided that there should be an annual election, it did not specify any particular time that that election should be held. He would, therefore, move that the words "Before the 31st March in each year" be inserted.

Amendment put and passed.

The Hon. C. H. BUZACOTT moved to amend the clause by omitting "Colonial Secretary" and inserting "Minister."

Amendment put and passed.

The Hon. C. H. BUZACOTT moved that the following new paragraph be added to the clause:—

"At the conclusion of every annual election the whole of the members of the board for the year then last past

shall retire from office, and so retiring shall be eligible for re-election." Any member so retiring shall be eligible for re-election."

He said it would be seen that, although the clause as it stood provided for an annual election, it did not provide for the retirement of the boards.

The Hon. W. H. WALSH said, as far as he could see, the members of the boards were elected for life.

The Hon. C. S. MEIN said he would also point out that there was no provision laid down for authoritatively stating that there would be an annual election every year.

The POSTMASTER-GENERAL said the amendment proposed distinctly said "any member so retiring shall be eligible for re-election." He did not see why there should be no interregnum at all between the retirement of members and their election.

The Hon. C. H. BUZACOTT thought that even an interregnum of one day might be productive of a great deal of injury. The clause as amended could certainly do no harm.

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

Clause 5—"Qualification of members and electors"; and 6, "Governor may appoint board or members in certain cases"—passed as printed.

Clause 7—"Board shall appoint a chairman and secretary"—

The Hon. C. H. BUZACOTT moved to omit "shall annually," and insert "subsequent to each annual election shall."

Amendment agreed to, and clause put and passed.

Clause 8—"Returns to be made"—passed as printed.

Clause 9 passed as printed.

On clause 10—"Fund for carrying out the provisions of the Act"—

The Hon. C. H. BUZACOTT moved that the words "not more than 5s. nor" be inserted.

The POSTMASTER-GENERAL said the amendment was almost unnecessary, because the 12th clause fixed the maximum assessment at the same amount. However, as the amendment would make the clause clearer, he should not oppose it.

Amendment put and passed.

On the motion of the Hon. C. S. MEIN, the words "or horses" were inserted after the word "cattle."

The POSTMASTER-GENERAL said, as some hon. members thought that the latter portion of the clause was ambiguous, he proposed to omit the words, "Provided that no such assessment shall be payable by any owner of less than twenty head of cattle or horses, or one hundred sheep," and insert the words, "Nor shall any assessment be payable by any owner other than the owner of a run held under the Pastoral Leases Act of 1869, of less than twenty head of cattle or horses, or one hundred sheep."

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

Clause 11—"Colonial Secretary may levy assessment in the event of board failing to do so," and 12—"Assessment to be paid to the clerk of petty sessions"—passed with verbal amendments.

On clause 13—"Assessment, how enforced"—

The Hon. C. H. BUZACOTT said he had an amendment to move on clause 13 which might at first seem objectionable from its retrospective

effect, but a member of the other House had represented to him that the Boards ought to be able to recover arrears of rates. Last year the Marsupial Bill was before Parliament, and after passing through the Assembly it was largely discussed in the Council, and was ultimately withdrawn on the 18th November. The previous Act expired on the last day of the session, the 30th November, and everybody believed that it would be replaced by the Bill which passed through the Assembly, and no measures were taken to enforce payment of overdue rates at the time. The result was a surprise, and it had been pointed out that it would be very unfair to allow the mere accidental lapsing of the Act to relieve those men who unfairly avoided the reasonable tax imposed upon them. Thinking there was a good deal of fairness in the suggestion, he had prepared a paragraph to meet it. If the Committee thought it expedient that the measure should have a retrospective effect in that particular, no harm would be done; but if there was a strong objection to it he did not intend to push it to a division. He moved, therefore, that the following paragraph be inserted after line 43 of the clause:—

The board may in like manner enforce the payment of all arrears of rates levied by any preceding board within their district under the provisions of the Marsupials Destruction Act of 1878: Provided that the justices shall require proof to their satisfaction that such rates were overdue and in arrear on the nineteenth day of November, eighteen hundred and eighty, and that such rates have not since been paid.

The POSTMASTER-GENERAL said he should oppose the motion. The reasons given were not sufficient to induce the House to insert in a new Bill a paragraph of that sort, referring to an Act which did not accidentally expire, but expired of *malice prepense*.

The Hon. C. S. MEIN said the amendment would do no harm, and might do a great deal of good. When the old Act ceased the boards ceased with it, and there was no one to enforce the claims the public had against those who refused to pay. It was only just that the new boards should succeed to the rights of the old boards in enforcing claims which were practically due to the public, and which certainly ought to be paid in justice to those who were honest enough to meet their liabilities as they fell due. If the clause were not introduced, they were practically offering encouragement to other persons to evade payment of the tax. The amendment was both reasonable and just, and he hoped it would be passed.

The Hon. F. T. GREGORY said that there was much force in the remarks that had been made; but, by passing the amendment, they would be introducing a principle which he was not aware existed in any other enactment. They would be trying to recover debts incurred under an extinct Act. Supposing a Municipal Constitution Act ceased to exist, and an extinct municipality were restored after the lapse of twenty years, would it be reasonable that power should be given to the new municipality to recover the unpaid rates of twenty years before?

The Hon. C. H. BUZACOTT said that that very power was given to municipalities under the Local Government Act of 1878.

The Hon. F. T. GREGORY said there was no analogy between the two cases. There was no lapse in the law. The Local Government Act carried on the system of municipal government without intermission.

The Hon. C. S. MEIN mentioned two extinct municipalities which were resuscitated by the Local Government Act of 1878, one clause of which provided that all the rights, assets, and

liabilities of an old municipality should be vested in the newly-created one.

The POSTMASTER-GENERAL said that if the amendment were passed it would be necessary to bring in clauses to explain what was to be done with the rates when recovered, for they could not become the property of the new boards. If justice was to be done, the money ought to be paid for the marsupials that had been killed during the interregnum between the two Acts. He would advise the hon. gentleman to withdraw his amendment.

The Hon. T. ROME said he should be heartily glad if those who dishonestly evaded the payment of a just assessment, which their neighbours did pay, could be compelled to pay. If that could be done by the adoption of the amendment, he should support it.

The POSTMASTER-GENERAL said it was not known that anyone had dishonestly evaded the assessment. They only had before them the *ex parte* statement of the Hon. Mr. Buzacott. Perhaps the men who had refused to pay were improperly assessed, or the boards had not done their duty. Under any circumstances he should oppose the amendment.

The Hon. C. H. BUZACOTT said that when he moved the amendment he did not quite see the absolute necessity of it; but the arguments brought on the other side induced him to press it to a division.

The Hon. T. L. MURRAY-PRIOR objected to the insertion in the Bill of a clause which had reference to an extinct Act.

The POSTMASTER-GENERAL said that if the amendment were carried, it would be his duty to move the Chairman out of the chair, in order to consult with his colleagues as to what should be done with the Bill.

The Hon. W. H. WALSH said that if it was intended to make the Bill retrospective he should oppose it. They had no right to take into consideration the misconduct of persons who failed to pay under the old Act. He objected strongly against payment being made for any scalps that had been collected since the expiration of the former Act and the passing of the measure now under consideration.

The Hon. W. H. WALSH said, under this clause, persons would be able to extort money from the Treasury for animals killed on runs outside the colony. He believed there were thousands and tens of thousands of scalps being hoarded up in anticipation of a Bill of this sort. If it were true that the Bill would be retrospective in its operation, he would strongly oppose it; for at all times Acts that were retrospective were bad in principle. They had always been deprecated by all great writers on the subject as bad in principle, and should never be resorted to except in extreme cases. And why should they resort to that bad system of legislation? He would repeat that he believed there were many persons who were husbanding marsupial scalps in anticipation of this Act. He would make it imperative that all applicants under this Act for compensation should be made to declare that the animals destroyed were destroyed within the existence of this Act. They should bear in mind that they were not dealing with the interests of the few but with the interests of the people of the whole colony. The Crown tenants did not care how much of their own money was contributed to this fund, because their very existence depended upon the Act. But how many thousands were there not interested in the remotest degree in the destruction of marsupials, and yet would be called upon to contribute *pro rata* to this tax. He said

on behalf of those farmers whom they shut out—those who had that pest, the kangaroo rat—these people would have to contribute towards the funds for the working of this Act. He said these farmers were directly interested, and therefore it behoved them one and all, not only as Crown tenants and squatters, but as citizens, to see, if one shilling was paid under this Act, that it was justifiably paid.

The HON. W. GRAHAM said the hon. gentleman had made a statement with reference to large numbers of scalps being hoarded up in anticipation of the passing of this Act, but he brought nothing to prove it. In his opinion, there were very few scalps being hoarded up, if any, although he had heard of one instance of the kind. He should not think it was likely that many people would do this, seeing that they were supposed to make a declaration that the marsupials had been destroyed after the passing of this Act.

The HON. T. L. MURRAY-PRIOR said perhaps the hon. member, Mr. Walsh, was not aware that those who had received most for killing kangaroos were the farmers themselves. He knew a great many farmers who made it a practice to go out and kill kangaroos.

The HON. C. S. MEIN said he did not think the Act retrospective at all. It simply dwelt with those cases where some moneys were due when the last Marsupial Bill expired. No person at that time was in a position to recover those moneys, and the object of this was to enable a board to recover them. He thought, in the interests of the taxpayers, it was their duty to see that these moneys were paid.

Amendment put, and the Committee divided:—

CONTENTS, 4.

The Hons. C. S. Mein, C. H. Buzacott, W. Pettigrew, and T. Rome.

NON-CONTENTS, 7.

The Postmaster-General, Hons. F. H. Hart, Gregory, T. L. Murray-Prior, McDougall, Foote, and Graham.

Question, therefore, resolved in the negative.

Original question put and passed.

On clause 14—"Assessment, how to be disposed of"—

The HON. W. H. WALSH said he saw that the moneys had to be forwarded to the Chief Inspector of Sheep, and asked why they could not be forwarded to the Treasury.

The POSTMASTER-GENERAL explained that he was simply carrying out the system inaugurated in clause 9.

The HON. W. H. WALSH said he presumed that the Chief Inspector of Sheep was the Chief Inspector of Stock also. If so, he thought they ought to pause before they amalgamated—so to say—this official with the working of this Act. If they had made any mistake in the 9th clause, let them correct it by recommitting of the Bill. He had reasons against the Chief Inspector of Stock interfering with this Bill. He held in his hand a report from that gentleman for the year 1880, and the wording of it was in such a form that the Government ought to have paused before they received it from him, or certainly paused before they allowed it to be placed on the table of the House and to be received by hon. members. He held that any officer in charge of a Bill of this kind should not be allowed to write to members of Parliament, and not only to members of Parliament but to a number of stockowners, in the way he had done in this production, which was a parliamentary record. The concluding paragraph of that report was one which caused him (Mr. Walsh) to doubt whether any person writing such a paragraph as that was fit to be

entrusted with the manipulation of this important Act, which would give him an opportunity of levying taxes upon the people of this colony. He had, he might say, already laid a tax upon the ability and character of persons in this colony. The last clause of this report was as follows:—

"It may be remembered that the measures adopted in Holland were voluntary inoculation where lung plague was not in existence; but on infected farms slaughter of the cattle really diseased, and compulsory inoculation of those yet showing no signs of the malady, had to be carried out. The value of inoculation, as on other occasions, has been most clearly demonstrated, and has been proved to be as certain a protective as vaccination is of human small-pox. The mortality following inoculation has been small, and no instance has been adduced of the disease having been spread or perpetuated by the operation. The experience of Holland dispels many notions entertained with regard to inoculation, and we can only regret that unfounded prejudice and narrow-mindedness have prevented this most valuable prophylactic from saving the country many thousands of pounds. We are content to have the disease, like the poor, always with us, and we slaughter entire herds of cattle which are not diseased, merely because our preconceived opinions will not allow us to save them by inoculation."

He begged to tell the gentleman who penned that that he knew as much about pleuro-pneumonia as he did. He did not hesitate to say that he was justified from the knowledge he had acquired in holding an entirely different opinion. He did think that the official who was ready to write in this insulting manner was not the person who should have the manipulation of a delicate matter like this, which indirectly enabled him to deal with the expenditure of people's money. For these reasons he objected to any officer who was allowed to write so flippantly and egregiously having anything to do with the funds under this Bill.

The POSTMASTER-GENERAL said the hon. gentleman had got very needlessly angry about the statement of the Inspector of Stock. If he had taken the trouble to look into the document he would have seen that Mr. Gordon was simply giving a quotation from the *Veterinary Journal*. If the Hon. Mr. Walsh had noticed that he would probably not have put forth such a tirade of abuse against a Civil servant who he believed had always done his duty faithfully and well. The whole thing was beside the question. If the hon. gentleman had any charge of unfitness to prefer against Mr. Gordon it would be all well and good; but what he had stated had nothing whatever to do with the clause under discussion. He thought that the Inspector of Sheep was the very person who had the time and knowledge which would enable him to work the Bill possibly better than any other Civil servant in whose hands it could be placed. It was decidedly unfair on the part of the Hon. Mr. Walsh to induce members to believe that the words he read were the actual words of Mr. Gordon himself. Personally, he did not share the opinions expressed by the *Veterinary Journal*, but he did not see that Mr. Gordon had committed any great crime in commending to Parliament, through the Colonial Secretary, the opinion expressed by one of the highest authorities on the subject in the British dominions. They were now dealing with an office, and not with the individual holder of that office, and it was quite immaterial whether Mr. Gordon or any other individual was the person to whom the working of the Act in that particular should be committed.

The HON. T. ROME said he thought the hon. Mr. Walsh had made a most uncalled for attack on the Chief Inspector of Stock, and had taken advantage of the debate to mention his name in a way which he (Mr. Rome) considered unfair. Mr. Gordon was well known all over the colony,

and he had always found him an extremely faithful and painstaking officer. If Mr. Gordon had been enunciating his own views instead of giving those of another authority, it would have been quite right on his part to do so; for he (Mr. Rome) would much rather see an official give his own opinion candidly than as a servile follower of a Government or a party.

The HON. W. H. WALSH said that no doubt the vast experience of parliamentary and public life possessed by the Hon. Mr. Rome justified him in taking him (Mr. Walsh) to task for what he had said; but that hon. member must bear in mind that he had had enough of experience to know what was his duty, and conscience enough to tell him when he should do it, and nothing that the hon. gentleman was likely to say or do for the next ten years would be likely to carry any weight with him for a moment. He was perfectly aware that he was reading a quotation from another authority than Mr. Gordon; but he had always held that a man who made a quotation, and adopted it, was doubly responsible for what it contained. The paragraph he had read should never have been received by the Government, nor should it be tolerated by the Chamber. As a very large cattle-owner, he felt that he had been personally rebuked by Mr. Gordon. He objected *in toto* to the inoculation of cattle, having, after years of experience, come to the conclusion that inoculation was ridiculous. He had nothing to say against the qualities of that officer, for he believed him to be a very meritorious public servant; but he had no business to reflect upon a large and important portion of the community by making quotations which were an insult to them.

The HON. F. H. HART said they had admitted in clause 9 the necessity of there being some officer to whom clerks of petty sessions should send returns, and there was no official who would be more suitable for the purpose than the Inspector of Sheep. As to the complaint of the Hon. Mr. Walsh, he held that it was the duty of an officer in Mr. Gordon's position to express his opinions candidly to the Government on matters which it was his special province to deal with.

The HON. W. H. WALSH objected that the clause was creating a new public accountant in connection with the taxation of stockowners.

Clause passed as printed.

On clause 15—"Exemption from assessment in certain cases"—

The HON. T. L. MURRAY-PRIOR said he should like to see the power vested in the boards *per se*, instead of its being done by proclamation by the Governor.

The POSTMASTER-GENERAL pointed out that if the power were left to the boards it might happen that a board composed of members who were not troubled with marsupials might decline to put on any assessment, and the object of the Bill might be defeated, which would not be the case if the power was vested with the Governor in Council.

The HON. J. F. McDOUGALL said he was in favour of the clause as it stood. One of the greatest blots in the old Act was that it was not compulsory, and many districts escaped all assessment.

Clause passed as printed.

Clauses 16, 17, and 18 passed as printed.

On clause 19—"Colonial Treasurer to pay certificates"—

The HON. W. H. WALSH said he would draw the Postmaster-General's attention to the fact that he had known many persons who, under the last Act, were unable to get payment from the Colonial Treasurer for destroying marsupials.

The POSTMASTER-GENERAL said it appeared to him that as long as there were funds available there would be no difficulty in getting payment. He believed there had been cases where persons did not get the money they earned simply because there were no funds.

Clause passed as printed.

Clauses, 20—"Penalty for obtaining certificates for scalps killed beyond the district"; 21—"Penalty for obtaining certificates for scalps killed beyond the colony on false statement"; 22—"Who may prosecute"; 23—"Short title"; the preamble, and schedules A, B, and C—were passed as printed.

The CHAIRMAN reported the Bill with amendments. The report was adopted, and the third reading of the Bill made an Order of the Day for Wednesday next.

APPROPRIATION BILL No. 2—SECOND READING.

On the motion of the POSTMASTER-GENERAL, this Bill was read a second time, and the committal of the Bill made an Order of the Day for Wednesday next.

The House, at twenty-seven minutes to 10 o'clock, adjourned till Wednesday next.