Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 23 JULY 1884

Electronic reproduction of original hardcopy

LEGISLATIVE COUNCIL.

Wednesday, 23 *July*, 1884.

Registrar of Titles Bill.—Succession Act Declaratory Bill.—Intercolonial Probate Bill.—Suspension of Standing Orders.—Public Officers Fees Bill.—Brisbane Valley Branch Railway.—Stanthorpe to Border Railway Extension.—Wharf Line, Cooktown Railway.—United Municipalities Act of 1881 Amendment Bill—second reading.—Marsupials Destruction Act Continuation Bill—second reading.—Divisional Boards Endowment Bill—second reading.—Appropriation Bill No. 1—second reading.

The PRESIDENT took the chair at 4 o'clock.

REGISTRAR OF TITLES BILL.

The PRESIDENT announced that he had received a message from the Legislative Assembly forwarding a Bill to provide for the appointment of a Registrar of Titles, and for transferring to that officer the duties now performed by the Registrar-General, under the Real Property Act of 1861, the Real Property Act of 1877, and the Acts relating to the Registration of Deeds; and for other purposes.

On the motion of the POSTMASTER-GENERAL (Hon. C. S. Mein), the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

SUCCESSION ACT DECLARATORY BILL.

The HON. P. MACPHERSON presented a Bill to explain certain provisions of the Succession Act of 1867.

The Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

INTERCOLONIAL PROBATE BILL.

The HON. P. MACPHERSON presented a Bill to give effect in Queensland to Probates and Letters of Administration granted in the other Australian colonies.

The Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

SUSPENSION OF STANDING ORDERS.

The POSTMASTER-GENERAL, in moving—

That so much of the Standing Orders be suspended as will admit of the passing of an Appropriation Bill through all its stages in one day—

said it was necessary to pass the motion in order to have money available for the purpose of paying salaries and other necessary expenses connected with the Public Service.

Question put and passed.

PUBLIC OFFICERS FEES BILL.

The PRESIDENT announced that he had received a message from the Legislative Assembly, forwarding a Bill to amend the law relating to the Remuneration of Officers of the Public Service by means of Fees.

On the motion of the POSTMASTER-GENERAL, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

BRISBANE VALLEY BRANCH RAILWAY.

The POSTMASTER-GENERAL moved—

1. That the plan, section, and book of reference of the proposed Extension, Section 2, of the Brisbane Valley Branch Railway, as received from the Legislative Assembly by message of the 14th July, be referred to a Select Committee, in pursuance of the Standing Order, of 2nd October, 1879.

2. Such Committee to consist of the following members, namely:—Mr. Turner, Mr. Foote, Mr. Macpherson, Mr. A. C. Gregory, and the Mover.

Question put and passed.

STANTHORPE TO BORDER RAILWAY EXTENSION.

The POSTMASTER-GENERAL moved—

1. That the plan, section, and book of reference of the proposed Southern Extension from Stanthorpe to the Border, as received from the Legislative Assembly by message of 15th July, be referred to a Select Committee, in pursuance of the Standing Order of 2nd October, 1879.

2. Such Committee to consist of the following members, namely:—Mr. Turner, Mr. Foote, Mr. Macpherson, Mr. A. C. Gregory, and the Mover.

Question put and passed.

WHARF LINE, COOKTOWN RAILWAY.

The POSTMASTER-GENERAL moved—

1. That the plan, section, and book of reference of the Wharf Line, Cooktown Railway, as received from the Legislative Assembly by message of 15th July, be referred to a Select Committee, in pursuance of the Standing Order of 2nd October, 1879.

2. Such Committee to consist of the following members, namely :—Mr. Turner, Mr. Foote, Mr. Macpherson, Mr. A. C. Gregory, and the Mover.

Question put and passed.

UNITED MUNICIPALITIES ACT OF 1881 AMENDMENT BILL—SECOND READING.

The POSTMASTER-GENERAL said the object of the United Municipalities Act of 1881 was to enable contiguous divisions and municipalities to be associated as a joint board for the purpose of any common undertaking. The 2nd section of that Act defined the purposes for which a joint board could operate to be—

"1. For the formation and maintenance of main roads, or roads excepted from the control of any local authority under the laws in force for the time being, relative to the government of municipalities.

"2. For the carrying out of any public work, or the making of any by-law, for the common benefit of a united municipality.

"3. For any other purpose not inconsistent with the powers conferred, and obligations imposed upon, local authorities by the laws in force for the time being."

Under section 6 of the Act of 1881, the joint board was constituted of representatives from each board composing a united municipality; but no united municipality had yet been formed under the statute, the reason assigned being that, where an extensive municipality was connected with smaller divisions or municipalities, the larger and more important local authority would be outvoted. An effort was recently made in the direction of forming a united municipality, consisting of the metropolis, certain divisions, and the Shire of Toowong; but it was found that the Municipality of Brisbane, though containing more ratable property and realising more rates than the whole of the others, would be outvoted in bringing about united action. The result was that no application had yet been made for union, although there were many undertakings that could be satisfactorily entered on, which, if carried out, would act beneficially to the public. It had been conceived, however, that if a less rigid rule were enforced than was contained in the Act of 1881 there would be applications for union, and the public would be correspondingly benefited. The Government therefore proposed to repeal clause 6 of the earlier statute, and provide that the governing body should consist of a number fixed by the Governor in Council—with two stipulations, to the effect that in no instance should one of the component municipalities send representatives more than one-half of the whole of the joint board, and that where the component municipalities amounted to upwards of three no municipality should have a number of representatives equal to one-half. The result would be that in no instance could one municipality be represented by a majority of the persons forming the joint board. It was laid down in the first clause of the Bill that the Governor in Council, in determining the number of representatives, should have regard, as far as practicable, to the ratable property in each division or municipality, and no doubt hon. gentlemen would come to the conclusion that that was the only fair mode of determining the representation. It was provided by clause 2 of the Bill that fees or other moneys received by a joint board should be appropriated, first, toward defraying expenses of collection, and afterwards for the purpose of giving effect to the operation of the by-law; any surplus being divided in proportion to the rates collected in the component municipalities. That was a most reasonable provision. Altogether, the Bill was more flexible than the present Act, and would, he thought, be found to work satisfactorily. He moved the second reading of the Bill.

The HON. A. C. GREGORY said the Bill was a great improvement on the present Act, which had proved inoperative when it was attempted to be put it into operation. It could be improved, however, in committee. The Bill only provided for an amendment of the Act so far as it related to the appointment of a united board and for the appropriation of revenue; but the great difficulty which arose was that divisional boards and municipalities were under different Acts. The Bill, together with the United Municipalities Act, simply provided that they should have the same powers as united boards, which they already possessed separately, and something should be defined with regard to that matter. It was true that the Governor in Council, having the power to set a limit to the operation of the Act by the regulations issued when the united municipality was proclaimed, might prevent the difficulty; but it would be better to provide a remedy in the Bill. There was another matter to which he would refer. Hitherto, although divisional boards and municipalities had been working under clauses of their separate Acts, which had almost precisely the same words, yet benches of magistrates gave one decision with regard to a breach of the by-laws in one division and another decision with regard to the same kind of breach in another division. In connection with the vehicle traffic, it was an easy matter to obtain a conviction against a man who offended against the by-laws of the city of Brisbane; but if an omnibus driver committed the same offence in one of the adjacent divisions, either the case was dismissed or the law said to be *ultra vires*. That being the case he did not think the Bill was sufficiently definite to effect an improvement in the law. Would it not be better to introduce something which would enable a board, under the United Municipalities Act, to enforce by-laws which had been operative in some cases and inoperative in others? Clause 167 of the Local Government Act, and clause 46 of the Divisional Boards Act Amendment Act, providing for the regulation of traffic, were alike, but the power to levy fees was not distinctly expressed. The words were :—

"By-laws may be made by the board of any division for any of the following purposes—Regulating and licensing porters, public carriers, carters, water-drawers, and vehicles plying for hire."

It had been held in a court of law that the provision gave power to regulate but not to impose a license fee; but he thought it did give power to impose a fee. His reason for thinking so was that clause 51 of the Divisional Boards Act Amendment Act of 1882, which was the same as the equivalent clause in the Local Government Act, said :—

"A by-law made under this Act may impose a penalty thereof, and may also impose different penalties in case of successive breaches."

That, he thought, set the question at rest, except that it had been urged in the words of the last part of clause 46, that—

"No such by-law shall contain matter contrary to this Act or any other law in force in Queensland."

It had been declared on one side that any by-law levying license fees was thus rendered *ultra vires*. But some divisions went so far as to pass a by-law imposing a wheel-tax, and in doing so made a mistake. It would have been quite legal for them to have passed a by-law levying a license fee upon each vehicle that proceeded through the division, but in levying a wheel-tax they were transgressing the last portion of the clause which allowed the establishment of by-laws. He remembered one case in which proceedings were taken against a man who went through a division and refused to pay the wheel-tax, the board being cast in damages. In other cases

by-laws had been framed, but were not sent for the approval of the Governor in Council, because it was considered useless. It would be well, therefore, if a clause could be introduced in committee, by which the question as to how far boards might go in making by-laws would be set at rest. He should support the second reading of the Bill.

Question put and passed, and committal of the Bill made on Order of the Day for Tuesday next.

MARSUPIALS DESTRUCTION ACT CONTINUATION BILL—SECOND READING.

The POSTMASTER-GENERAL said he anticipated that very few words would be required to commend this Bill to the favourable consideration of the House. When the Legislature of this colony first dealt with the marsupial question in 1877, politicians of all shades of opinion were unanimous in agreeing that the country was suffering from a calamity which might almost be considered as national. The provisions of the Act of 1877 were extremely beneficial, and undoubtedly resisted the plague. Unfortunately, however, the Act was only limited in operation, and was suffered to die out without re-enactment. The plague still continued, although in a less degree, and in 1883 the Legislature passed the Marsupials Destruction Act of that session, which would expire at the end of the present year. An enormous amount of good had been done under the operation of these two statutes, and in proof of that he would refer hon. members to the report of the Chief Inspector of Stock on the working of the Marsupials Destruction Act of 1883, which he had laid upon the table of the House that day. In connection with the working of that Act he observed some very interesting statistics, with which he would trouble hon. members. Mr. Gordon stated that there were destroyed, under the Act of 1877, 1,171,427 kangaroos and wallaroos, and 595,531 wallabies and paddamelons; under the Act at present in force, up to December 31st, 1883, 786,101 kangaroos and wallaroos were destroyed, and 1,235,830 wallabies and paddamelons. So that there had been actually destroyed a total of 1,957,528 kangaroos and wallaroos, and 1,831,361 wallabies and paddamelons. The total cost of destruction under both statutes had been £90,189 13s. 10d., or an average of 5.7 pence per head. Those figures were exclusive of the trifling extra cost imposed upon the Government in the matter of clerical work and small items of that sort. He did not think anyone could come to any other conclusion than that that £90,189 odd had been very beneficially expended, and that by that expenditure the country had saved an enormous amount of wealth. As the Act was about to expire, Mr. Gordon considered it his duty to communicate by circular letter with the different boards, and invited an expression of opinion from them as to whether the Act should be continued. There were in all forty-one boards to whom the circulars were addressed, and out of those only three replied that they thought there was no necessity for the continuation of the Act in their particular districts, but suggested that it might be re-enacted so as to make its application optional. Fifteen boards had not yet replied, and of the remaining twenty-nine, all were in favour of the continuation of the Act for a further period of three years. The Government were fully alive to the fact that the present Act was not as complete a measure as it might be, but other more pressing business had received their attention, and it had been quite impossible to bring in a more comprehensive measure. The matter was considered to be one of urgency, and it was undesirable that the provisions of the present statute, imperfect though they might be, should be allowed to expire. He begged to move the second reading of the Bill.

Question put and passed, and committal of the Bill made an Order of the Day for Tuesday next.

DIVISIONAL BOARDS ENDOWMENT BILL—SECOND READING.

The POSTMASTER-GENERAL said: Under the Divisional Boards Act of 1879 it was provided that the endowment to be given to the boards should be at the rate of twice the amount actually raised by rates other than special within the division during the first five years of its incorporation, but that afterwards the amount should be equal to the amount raised by rates in the division. However much opposed the opinions of politicians might have been as to the desirableness of extending the provisions of the Local Government Act to divisional boards, they could not shut their eyes to the fact that in a large majority of instances the boards had done a great deal of good, and it was found that, unless they obtained further assistance from the Government, a large amount of the work they had done would be useless, from their inability to carry it out on account of the absence of funds. The Government had, therefore, considered it advisable, after a large amount of deliberation, to ask the Legislature to extend the provisions of the 71st section of the statute so as to enable the double endowment to continue for a further period of five years. Some divisional boards had had themselves constituted municipalities under the Local Government Act of 1878. It was considered that they should be treated in the same way as if they were still divisional boards, and have the endowments extended to them. Hence the introduction of the 2nd clause, which provided that when a divisional board had been created a municipality it would be entitled to receive the same endowment as if it had continued a divisional board. He begged to move that the Bill be now read a second time.

The HON. W. FORREST said he was strongly in favour of the 1st clause of the Bill, and as strongly opposed to the 2nd clause. Unless he altered his mind in the meantime, he should move an amendment in committee. He thought that when a division became sufficiently populous to form itself into a municipality it ought to be left to take care of itself. He quite agreed with all the Postmaster-General had said with reference to the double endowment to divisional boards, but he should strongly oppose the other part of the Bill.

The HON. A. C. GREGORY said, as a representative of a municipality that would come under the operation of the 2nd clause of the Bill, he was bound to support it, not only in the interests of the Shire Council of Toowong, but because he considered it was highly desirable that the provision should be made. The Shire of Toowong was originally part of a divisional board; but the division consisted of two distinct parts. One part was small, and covered with houses and population; and the other was large, with a great deal of open country. Consequently, the two parts could not very well work together. The one part, therefore, was brought under the Local Government Act, and it became a shire council. As regarded the condition of things generally, the only advantage was that certain facilities were given for working the more populous part of the division, but practically it was now in the same position exactly as though it had continued to be a part of the divisional board of which it was originally a part, and he considered that it would be unfair to deprive the shire of any of the

advantages which would have accrued to it under the Divisional Boards Act, under which it was started. Originally every divisional board in the colony had endowment in one shape or another for a certain number of years, and those endowments were now expiring by effluxion of time. In the event of it being necessary to form a shire or municipality out of any part of a divisional board, the population in reality derived no great benefit, because with increased rates came increased liabilities. It was, therefore, but reasonable that the additional endowment should be extended to those shires or municipalities who had severed themselves from divisional boards. He was therefore prepared to support the Bill as it stood.

Question put and passed, and committal of the Bill made an Order of the Day for Tuesday next.

APPROPRIATION BILL No. 1—SECOND READING.

The POSTMASTER-GENERAL moved that the Bill be read a second time.

Question put and passed.

The Bill was passed through the remaining stages without discussion, and ordered to be returned to the Legislative Assembly with message in the usual form.

The House adjourned at seven minutes to 5 o'clock.