

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 23 SEPTEMBER 1884

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LEGISLATIVE COUNCIL.*Tuesday, 23 September, 1884.*

Native Birds Protection Act Amendment Bill.—Succession Act Declaratory Bill.—Highfields Branch Railway.—Bills of Exchange Bill.—Patents, Designs, and Trade Marks Bill.—Wages Bill.—Health Bill.—Immigration Act of 1882 Amendment Bill.—Pettigrew Estate Enabling Bill.—Gympie Gas Company (Limited) Bill.—Maryborough Town Hall Bill.—Skyring's Road Bill.—Question without Notice.—Pharmacy Bill—report of select committee.—Oaths Act Amendment Bill—second reading.—Sale and Use of Poisons Bill—second reading.—Native Labourers Protection Bill—committee.—Pharmacy Bill—second reading.—Local Authorities By-Laws Bill.

The PRESIDENT took the chair at 4 o'clock.

**NATIVE BIRDS PROTECTION ACT
AMENDMENT BILL.**

The PRESIDENT read a message from the Legislative Assembly, stating that the Assembly disagreed to the amendments in clause 1, and agreed to the amendments in the other parts of the Bill.

On motion of the HON. P. MACPHERSON, the consideration of the message was made an Order of the Day for to-morrow.

**SUCCESSION ACT DECLARATORY
BILL.**

The PRESIDENT read a message from the Legislative Assembly, returning the Bill with an amendment, in which the Assembly requested the concurrence of the Council.

On motion of the HON. P. MACPHERSON, the consideration of the message was made an Order of the Day for to-morrow.

HIGHFIELDS BRANCH RAILWAY.

The PRESIDENT read a message from the Legislative Assembly, transmitting, for the approval of the Council, the plans, sections, and book of reference of the Highfields branch of the Southern and Western Railway from Cabarlah to Crow's Nest.

BILLS OF EXCHANGE BILL.

The PRESIDENT read a message from the Legislative Assembly, stating that the Assembly did not insist on their amendment in clause 97.

**PATENTS, DESIGNS, AND TRADE
MARKS BILL.**

The PRESIDENT read a message from the Legislative Assembly, stating that the Assembly agreed to the amendment of the Council.

WAGES BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to amend the Wages Act of 1870.

On the motion of the HON. A. J. THYNNE, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

HEALTH BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to make better provision for securing and maintaining the Public Health.

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.

IMMIGRATION ACT OF 1882 AMENDMENT BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to amend the Immigration Act of 1882.

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.

PETTIGREW ESTATE ENABLING BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to enable the trustees for the time being of the will of John Pettigrew, deceased, to sell and dispose of certain trust property comprised therein.

On the motion of the POSTMASTER-GENERAL, the first reading was made an Order of the Day for to-morrow.

GYMPIE GAS COMPANY (LIMITED) BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to enable the Gympie Gas Company (Limited), incorporated under the provisions of the Companies Act, 1862, to light with gas the goldfields of Gympie, and for other purposes therein mentioned.

On motion of the Hon. P. MACPHERSON, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

MARYBOROUGH TOWN HALL BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council a Bill to enable the council of the municipality of Maryborough to sell or mortgage certain land granted to the said council as a site for the erection of a town hall, and to apply the proceeds to the building of a new town hall on other land granted to the said council as a reserve for a town hall.

The Hon. P. MACPHERSON moved that the Bill be read a first time.

The Hon. W. H. WALSH: Where is it? Is it a private Bill?

The Hon. P. MACPHERSON: It comes from the other Chamber with the report of a select committee, and that is equivalent under the Standing Orders to its being a public Bill, I have always understood. There is no question of fees.

The Hon. W. H. WALSH: I simply want to see the business carried on according to the practice which has heretofore been the rule. The first reading of the Pettigrew Estate Enabling Bill—a private Bill—has been postponed till to-morrow; and our Standing Order is very explicit on the subject. Standing Order 81 says:—

“Before any private Bill be read a first time in this Council, a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the colony, to meet the expenses of such Bill; and a certificate of that sum having been paid, to be filed

with the clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of members, three clear days before the same is considered.”

The Hon. P. MACPHERSON: Standing Order 69, says:—

“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.”

The Hon. W. H. WALSH: That refers distinctly to a select committee. Such a Bill shall be treated as a public Bill in so far that it shall not go through the ordeal of passing through two select committees. It is a stringency that ought not to be maintained; but as long as the Standing Order exists, we are bound to respect it.

The Hon. P. MACPHERSON: I may point out, further, that it is to be dealt with in the same manner as a public Bill, and shall not be referred to a select committee. I would ask the opinion of the Postmaster-General?

The POSTMASTER-GENERAL: This is not the first time the question has been raised. It has been raised before on one or two occasions. I think it was practically decided in 1879, when the Hon. Mr. Walsh had charge of the Toowoomba Chapel Lands Sale Bill. He raised the question himself as to the propriety of the practice adopted previously of exacting a fee under the 81st Standing Order. It appeared to him, and to myself, that the exaction of the fee was improper. It was agreed that for the present no private Bill should be introduced into the Chamber, but that we would rely on the supervision taken by the other Chamber, and be satisfied with the evidence taken by the Select Committee which sat under their Standing Orders. The object of the enactment of the fee was to provide that the public should not be put to any expense with regard to measures which have their origin in private requirements. The matter was discussed at considerable length; and the report will be found at page 205, volume 28 of *Hansard*. I then agreed with the view the Hon. Mr. Walsh seemed to think the Standing Orders implied; and the President, after quoting what was then the 82nd and is now the 81st Standing Order, stated his opinion had long been that the second fee on passing a private Bill was an unnecessary enactment. He quoted from “May,” and wound up his observations by stating that it was inconsistent with common sense that the two fees should be enacted. Hon. members appeared to have concurred with that view by the decided expression of opinion; and my hon. friend, after having tested the feeling of the House, formally moved the first reading. And since then it has been the practice in this House to require no fees in the case of such a Bill.

The Hon. W. H. WALSH: I think it would be just as well to have your ruling, Mr. President.

The PRESIDENT: I have not been asked for any ruling.

The Hon. W. H. WALSH: I should like to know whether my version of the 81st Standing Order should not accompany the introduction of the Bill?

The PRESIDENT: I have read carefully the 81st Standing Order, and referred to previous decisions, and I understand the 81st Standing Order refers entirely to Bills introduced into this House for the first time—Bills which have not passed the other House. I think that

this Bill, having passed the other House, and having come up to us accompanied by the report and proceedings of the Select Committee, now takes the place of a public Bill, so far as the treatment of it is concerned, and that it can be read a first time.

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

SKYRING'S ROAD BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to close a road privately dedicated to the public over subdivision "A" of portion 59, parish of North Brisbane, county of Stanley, and to open in its stead a road over subdivisions "d a" and "d b" of the said portion.

On the motion of the HON. A. J. THYNNE, the Bill was read a first time, and the second reading made an Order of the Day for Wednesday, 1st October.

QUESTION WITHOUT NOTICE.

The HON. W. H. WALSH said: I wish to call attention to the fact that up to the present moment we have received no Auditor-General's report during the session. It seems quite unusual that the session should be passing away without our having as a guide in our duties here some kind of report from the Auditor-General; and I would ask the Postmaster-General if he would be so good as to ascertain from the Auditor-General whether Parliament is to be furnished with a report this session?

The POSTMASTER-GENERAL: I am acquainted with the circumstances which have prevented the Auditor-General—if he has been prevented—from furnishing his report; but I will inquire into the matter. I have no doubt that if there is any delay there are very good reasons, but I can give no information at present on the point.

PHARMACY BILL—REPORT OF SELECT COMMITTEE.

The HON. A. J. THYNNE, in moving—

"That the Report of the Select Committee on the Pharmacy Bill be now adopted"—

said: As this report has been in the hands of hon. members for three weeks, I do not think it necessary to detain the House with any remarks on the subject, especially as the second reading of the Bill itself will come on at a later period of the day. If, however, any hon. member desires any information, I shall be happy to give him any in my power.

The POSTMASTER-GENERAL said: As I was to a certain extent instrumental in having the Bill referred to a select committee, I think it would not be proper for me to allow the motion for the adoption of the report to pass without one or two observations. Though I concurred in the bringing up of the report it was on the express understanding that I reserved to myself the right, if the Bill should reach committee, to move an amendment in the direction intimated by the remarks I made when I induced the House to refer it to a select committee for consideration. The amendment I have in view is to provide that the board contemplated by the Bill for licensing pharmaceutical chemists shall be composed entirely of persons who have themselves undergone examination. With that amendment, the Bill will be a desirable improvement on the existing state of the law, though not as perfect as the profession and the public might desire.

The HON. W. H. WALSH said: I am not going to oppose the motion for the adoption of the report, but I desire to call the attention of

the Council to the irregular way in which the committee was appointed, so that we may avoid committing such an irregularity in future. The 97th Standing Order runs thus:—

"The notice of motion for the appointment of every select committee shall contain the names of the member whom the mover wishes to appoint with himself on such committee; but if the mover be desirous the committee should be appointed by ballot, then the number only need be stated."

As far as my experience goes in the interpretation of that clause, it is absolutely necessary that the mover of a select committee should be a member of it. In this instance hon. members will find that this rule has not been observed. The Hon. Mr. Foote, who proposed the committee, did not include himself in the motion. I call attention to the matter, as I am in duty bound to do, in order that if it is considered a grave error it may be avoided in future.

The HON. A. J. THYNNE said: The hon. gentleman pointed out to the committee what he considered to be an irregularity in their appointment, and the majority of the committee were of opinion that the rule which he has mentioned did not apply to the case of the appointment of a select committee upon a Bill. There is a difference between the appointment of a select committee, such as the hon. gentleman has had appointed by the House this session—namely, a committee to inquire into a subject not connected with a Bill before the House—and a committee to whom a Bill is referred for a special purpose. That is the conclusion the majority of the committee arrived at. I am very glad that hon. gentleman has brought the question before the House, so that if we were wrong in our view—which I do not think we were—the matter may be finally settled and the mistake avoided in future. I would point out to hon. members that the 97th Standing Order, which has been quoted, refers merely to notices of motion, not to a simple motion. On this occasion the practice did not require any notice of motion to be given. The rule with reference to notices of motion, therefore, does not apply in this case.

The HON. W. H. WALSH said: I would point out that the 98th Standing Order is very distinct on the subject. It says:—

"If, upon any motion for a select committee, any two members shall require it, such committee shall be formed in the manner following, namely:—Each member shall give to the clerk a list of members whom he wishes to be appointed on such committee, not exceeding the number proposed, inclusive of the mover; and if any list contain a larger number of names it shall be rejected, and the members who shall be reported by the Clerk to have the greatest number of votes shall be declared by the President to be the members of such committee; and in case of doubt arising from two or more members having an equality of votes, the President shall decide which shall serve on the committee."

The HON. A. C. GREGORY said: I think clause 98 simply points out that the number on the committee is not to exceed a certain number, inclusive of the mover; and the mover is simply mentioned in the rule to show that the number nominated, even with the inclusion of his name, should not exceed the number to be appointed. It would be quite possible to leave the mover out; if that were not so, the election would not be by ballot. The mover might be in a minority when the votes came to be counted, and the first part of Standing Order 97 would not apply then. The Standing Order simply provides that—

"The notice of motion for the appointment of every select committee shall contain the names of the members whom the mover wishes to be appointed with himself on such committee."

It does not require that the mover shall be on the committee. It would be very inconvenient

sometimes if that were necessary. The mover has the privilege of naming himself—he is entitled if he choose to name himself—as one of the committee he proposes should be appointed, but he is not bound to do so. If hon. members do not wish to have him appointed, then they can proceed to ballot.

The PRESIDENT said: It may save some discussion if I point out that all the references made by hon. members are to notices of motion for the appointment of a committee. This committee was not appointed by notice of motion. It was appointed by an amendment on a motion for the second reading of a Bill. The Standing Order, therefore, does not apply.

Question put and passed.

OATHS ACT AMENDMENT BILL— SECOND READING.

On the Order of the Day for the resumption of the adjourned debate on the Hon. P. Macpherson's motion, "That this Bill be now read a second time," being read—

The Hon. P. MACPHERSON moved that this Order of the Day be postponed till October 7.

Question put and passed.

SALE AND USE OF POISONS BILL— SECOND READING.

On the Order of the Day for the resumption of the adjourned debate on the Hon. P. Macpherson's motion, "That this Bill be now read a second time," being read—

The Hon. P. MACPHERSON said: I move also that this Order of the Day be postponed for a fortnight. I do so because I regard the discussion on this Bill as subsidiary to the discussion on the Pharmacy Bill.

Question put and passed.

NATIVE LABOURERS PROTECTION BILL—COMMITTEE.

On this Order of the Day being called, the House went into Committee to further consider the Bill.

The POSTMASTER-GENERAL said that, when the Bill was under discussion in committee before, he stated that he would like to consider what action he should take in consequence of the amendment that was made in clause 6, which he regarded as very material. He thought then, and did so still, that if the amendment was persisted in the main object of the Bill would be defeated. However, he did not intend to abandon the Bill at the present time, but proposed to give the House an opportunity of reconsidering clause 6. He did not wish hon. members to be taken by surprise, and he made that intimation then in order that those hon. gentlemen who felt an interest in that measure—which was really of considerable importance to the colony—might have an opportunity of reconsidering the matter, and that he himself might have an opportunity of offering additional arguments to show that the provisions of clause 6 were not too stringent, and were not likely to have an oppressive effect at all. Perhaps it would be more convenient under those circumstances not to proceed with the further consideration of the Bill at that time, because the other clauses were framed on the assumption that the principle laid down in clause 6 would be adopted. He therefore moved that the Chairman leave the chair, report no progress, and ask leave to sit again. He did not propose that the Committee should sit again before Tuesday next, because he wished to give hon. members who

were not now in town an opportunity of knowing what course he intended to pursue, so that they should not be taken by surprise.

Question put and passed.

The House resumed, and the CHAIRMAN reported no progress, and asked leave to sit again.

On the motion of the POSTMASTER-GENERAL, leave was given to the Committee to sit again on Tuesday next.

PHARMACY BILL—SECOND READING.

The Hon. A. J. THYNNE said: In moving that this Bill be now read a second time, I would ask hon. gentlemen to remember the report which has been brought up by the committee, the burden of which is that they find—

"That the law at present in force regulating the registration of chemists and druggists is defective, inasmuch as it does not make sufficient provision for the protection of the public by a proper system of education and examination of candidates for registration, and by preventing as far as possible the registration of incompetent persons, and that further legislation on the subject is urgently required."

Now, I do not think, hon. gentlemen, that there can be any question in the minds of any hon. member who has given attention to this Bill or to the evidence which has been taken by the committee, either in 1882 or by the recent committee, that the conclusion at which they have arrived as to the defective nature of the present law is in any way an erroneous one. It is a very serious circumstance for them to state that the public safety is not sufficiently protected at the present time, and I think that that conclusion is sufficient justification for the persistence and perseverance with which the principal chemists of this city have urged Parliament for some years past to pass a better legislative provision than the existing law. The chemists who have been called have all concurred in condemning the present system. Mr. Ward in his first answer declares that the public are not now sufficiently protected. Mr. Taylor, a wholesale chemist of very good standing, who has the further ground for the consideration of his opinion that he is not personally interested in the working of the Bill, also very strongly condemns the present method of admitting chemists. Mr. Yeo and Mr. Fitzgibbon also give similar evidence, and the bulk of the medical men who were examined before the committees have either directly or indirectly shown that they were of a similar opinion. In adopting a measure of this kind we can scarcely do better than follow the laws which have been adopted with a considerable amount of success in Great Britain and the other colonies. The Bill before the House has therefore been drafted on the lines of the English Act and the laws in force in Victoria and New South Wales. Those laws have worked well, inasmuch as they have raised the status of the chemists as a body, and consequently ensured the better safety of the public. The committee, in their report, say that they find the Bill is similar to the provisions of the law in Great Britain and the colonies, and, having gone through the several clauses, they recommend its adoption by this honourable House, with one amendment. It does not appear to me to be necessary to detain the House any further, except to draw the attention of hon. gentlemen to the one amendment proposed to be made—namely, the omission of subsection 4 of clause 28. The effect of that omission will be to abolish all distinction between ordinary chemists and druggists, and the class of chemists and druggists who are commonly called homoeopathic chemists. One of the principal grounds upon which the committee came to the conclusion to recommend the House to make that amendment

was the evidence—and the very valuable evidence indeed—which was given by Dr. Waugh, a medical gentleman whose opinion is entitled to every respect and to great weight upon this matter, because he states himself to be a believer in homœopathy. Dr. Waugh is also duly qualified in allopathy, and he considers it would be better to make no distinction between the two classes of chemists, because, although the knowledge required to admit an ordinary chemist to registration may not be absolutely necessary or essential in a homœopathic chemist, still it is a great advantage to the homœopathic chemist to have that knowledge. The omission of this subsection will also have the effect of removing what I have all along felt to be somewhat of a difficulty in framing a law which would be applicable alike to homœopathic and ordinary chemists. My hon. friend, Mr. Gregory, before the Bill was referred to the committee, pointed out with considerable weight that if this clause were left in it would really hamper the working of the Bill to a very considerable extent, because of the difficulty of defining what homœopathic chemistry is. The hon. the Postmaster-General has to-day made some allusion to a proposition he intends to make in committee as to the constitution of the board of examiners, to the effect that the board should only consist of members who have themselves passed examinations for admission. I do not think that on that question there will be very much difficulty if it can be practically carried out; but the difficulty I see is that so far as my information goes there has been no record kept of the qualifications of the chemists who have been hitherto admitted—whether they have been admitted on account of apprenticeships served in the colony or upon certificates from other parts of the world. But I really do not see why a distinction should be drawn between men who have been admitted to registration after having qualified in this colony, and those who have qualified elsewhere. We have very little information as to what the examinations were that those gentlemen may have passed in other parts of the world, which adds very little to the security which the public would have under the Bill. Examiners who have not themselves passed many examinations are generally regarded as the most difficult to please, and if the Bill is left as it is, and one or two men get on the board who have not passed examinations, hon. members need not be afraid that the examinations will be made any the less stiff. I do not regard that as a vital point in any way; but if it can be shown that the Postmaster-General's proposal is desirable and can be worked, I do not think there can be any great objection to it. At present I cannot see my way to adopt the proposal, because of the difficulty I see in carrying it out. I do not wish to detain the House unnecessarily long, and as we have had Pharmacy Bill *ad nauseam* during the present and past sessions, I will ask hon. members to adopt the motion I have made—that the Bill be now read a second time.

Question put and passed, and the committal of the Bill made an Order of the Day for to-morrow.

LOCAL AUTHORITIES BY-LAWS BILL.

The PRESIDENT announced the receipt of a message from the Legislative Assembly forwarding this Bill.

On the motion of the POSTMASTER-GENERAL, the Bill was read a first time, ordered to be printed, and the second reading made an Order of the Day for to-morrow.

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