

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 13 NOVEMBER 1884

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LEGISLATIVE COUNCIL.

Thursday, 13 November, 1884.

Defence Bill.—Townsville Gas Company Bill—third reading.—Jury Bill—second reading.—Brands Act Amendment Bill—second reading.—Divisional Boards Agricultural Drainage Bill—second reading.

The PRESIDENT took the chair at 4 o'clock.

DEFENCE BILL.

The PRESIDENT read a message from the Legislative Assembly, forwarding a Bill to make better provision for the defence of the colony of Queensland.

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 Wednesday next.

TOWNSVILLE GAS COMPANY BILL—THIRD READING.

On motion of the Hon. P. MACPHERSON, the Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly with message in the usual form.

JURY BILL—SECOND READING.

The Hon. A. J. THYNNE: Hon. gentlemen,—In moving the second reading of this Bill I wish to say that it is intended to remove some difficulties that exist in the present jury law. One difficulty is the trouble and expense to which jurymen are put in travelling to and from court towns; and it is proposed by the 1st section to give power to the Governor in Council to increase or decrease the limit of distance which jurymen have to travel; but in no instance will a jurymen be obliged to travel more than fifty miles. In some parts of the colony men have been compelled to travel much longer distances, and it is rather too severe a test of people's loyalty to make them travel such long distances to serve as jurymen. In Brisbane the limit is thirty miles, and people may be summoned from Ipswich. They have been summoned from Nerang Creek, Beenleigh, and other places at a considerable distance, when a sufficient number of men could have been got within a much shorter distance. It is intended to give power to the Governor in Council to extend or limit the distance according to the circumstances of each particular town. The 2nd clause provides for the abolition of the trial of aliens by a mixed jury, which is very rarely called into requisition in the colony, and which it is much better to abolish altogether. Some aliens having to be tried might not be able to get, within a reasonable distance, a sufficient number of their country-

men to form a mixed jury. The 3rd clause provides for the removal of a proceeding which is pretty well obsolete and very unsuitable to the present system of legal procedure, and to substitute a more simple and rational method of disposing of any question that may arise under it. The 4th section provides for the exemption of people incapacitated by disease or infirmity from being summoned as jurymen; and the 5th clause is one which is intended to remove what has been in many cases a great hardship to jurymen, who in the cold winter months have been locked up without any fire or refreshment, the judges having no discretion to allow them either fuel or refreshment. It is endangering the lives of jurymen to compel them to spend the night in comfortless quarters, such as they have usually to occupy. It is not intended that jurymen shall have these luxuries and conveniences, provided by the clause, on all occasions; it is to be left to the discretion of the judges for the time being. The 6th clause enables the court to discharge from attendance any juror who has been summoned to serve on a jury. The sections of the Bill speak plainly for themselves, and I do not think I need detain the House by enlarging any further upon the measure. I beg to move that the Bill be now read a second time.

The Hon. W. H. WALSH said: There are one or two peculiarities in this Bill which deserve our consideration. The 4th clause seems to me objectionable. I cannot at all understand why a mining manager should have this exemption, and no other class of manager. It seems to me that whenever the question of mining is brought before Parliament there are some extraordinary favours shown on behalf of those who follow that pursuit. Why should the manager of a mine be exempted from sitting on a jury any more than the manager of a large plantation, of a large warehouse, a sawmill, or any other works that require constant attention? The argument used by my hon. friend, I do think, is not sufficient to justify us in approving of such an omission. Moreover, by incapacitating, as it were, the managers of mines, we may be excepting or keeping from juries the very class of men that are required in particular cases to make a perfect jury. I point that out because I protest against one law for miners and another for the rest of her Majesty's subjects. We are constantly doing that, as though they were a different race of beings altogether. Whether it be the holding or purchase of land or the possession of land, the miners have everything their own way. There is always some peculiar law favouring them which no other class of the colony possess. And so it is now in this Bill, and in other Bills to which I could no doubt refer. But this Bill is peculiarly objectionable, I think, in exempting the managers of mines. Why, the excuse will be, when the owner of a mine is summoned, that he is also a manager; and half-a-dozen owners may say they are managers, because each may take his share in managing the mine. It is an invidious distinction, and a kind of class legislation that I shall endeavour to abolish. I wish to point out, particularly to the Postmaster-General, that when I was last in Maryborough I noticed a paragraph in a paper there to the effect that more than half the jurors qualified to sit on juries in that town were foreigners. I think this is the first opportunity I have had of mentioning the fact as stated in a very respectable paper. If it is a fact, I think some slovenliness, some indifference, or some scheming has been set in motion in order to create what, to me, is a most repugnant state of things. I cannot conceive of a body of Englishmen permitting foreigners to

monopolise the jury-box and try them: and yet it was distinctly stated in the paper; and the Postmaster-General can easily get proof of whether it is so or whether it is not. At any rate I tell him it was made public that the majority of jurymen qualified to sit at the Maryborough assizes are foreigners. I trust that attention will be called to the fact; and I hope that this Bill will have the good effect, by enlarging the area for the selection of jurymen, of doing away with the necessity for employing foreigners in that particular place. When the Bill gets into committee I think we ought to put in a new clause, providing that no jury list shall be composed of more than a certain number of foreigners. Such a clause will be only fair to us as Englishmen. What would be said in Germany, for instance, or any other country of the European continent where they have such things, if it were found that the majority of the men on the jury list was composed of Englishmen, or aliens to their own race? I think it would be flouted at once. It would not be listened to for one instant. Yet we, in our carelessness or excessive liberality, or in our pandering apparently to political parties at this moment at Maryborough, if not elsewhere, suffer that thing. I think I shall test the question, when the Bill goes into committee, by moving such a clause as I have indicated; and I think, with an addition of that sort to this Bill, and with the excising of that part of that clause which exempts mining managers, it will be an improvement on the present state of things.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I had not intended to address the House on the second reading of this Bill, because I considered the observations of the mover were quite sufficient to recommend it to the approval of the House. The Hon. Mr. Walsh has, however, raised a question which it is as well that I should answer. The exemption of mining managers in this Bill is absolutely necessary. By the statute relating to mines, very arduous and important duties are imposed upon mining managers. They are bound to exercise a certain supervision over the mines, and are responsible for the manner in which the work is carried on. If certain accidents should take place from negligence or want of supervision on their part, they are held criminally liable and may be imprisoned for a considerable period; hence the necessity that these men should not be compelled to go and perform duties which would take them away from the supervision of the work entrusted to their charge. Otherwise they will be able to excuse themselves for any accident which their negligence might cause to take place, but for which their absence might offer an apparent excuse. Their exemption, therefore, has been wisely inserted in the Bill in view of the provisions we passed in this House in 1881. With regard to foreigners sitting on juries, I cannot credit the statement of the hon. gentleman, which he tells us he read in a newspaper. He must be very credulous indeed if he trusts everything he reads in newspapers. Our Jury Act expressly prohibits foreigners from being summoned to sit on juries. No person can be appointed or added to the jury list who is not a natural-born or naturalised British subject. We have an Act which enables persons who are born in other countries not attached to Great Britain to become naturalised British subjects. When they become naturalised they swear allegiance to the British Crown, and for all practical purposes are treated under our laws the same as if they had been natural-born British subjects; and why—in the face of that, when we have given them those privileges—the hon. gentleman desires that these persons should be debarred from sitting on juries, I am at a loss to conceive. No person who is not a naturalised

or natural-born British subject can assist in any jury in the colony. I will add nothing to the remarks of the Hon. Mr. Thynne in regard to the general details of the Bill, because it is intended to meet defects in our present jury law which have been notorious for some time past.

Question put and passed; and committal of the Bill made an Order of the Day for Wednesday next.

BRANDS ACT AMENDMENT BILL— SECOND READING.

The Hon. W. H. WALSH said: Hon. gentlemen,—In moving the second reading of this Bill I have but a few words to say. Under the Act at present in existence there is a much larger amount of money collected than is required for the working of the Act, or that can possibly be expended. The main object of this Bill is to insert a schedule which will reduce the charges to something like co-equal to the expenditure. The 1st clause is simple enough—

“From and after the passing of this Act the schedule hereto shall be substituted for Schedule C of the Brands Act of 1872.”

The 2nd clause is, I think, something new—at any rate, it appears to be required; it limits the time for initiating a prosecution. And the schedule, hon. gentlemen will see, provides that for every first registration of a brand the fee shall be 10s., which is the same as in the present Act; for every transfer of a brand, 5s.—half the present amount; and annual assessment for owners of stock—for every 100 or portion of 100 after the first 50, 1s. 6d., instead of 2s. 6d. as at present. I think hon. gentlemen will see that it is a very proper amendment on the existing Act; and I may say that my hon. friend the Postmaster-General has got some figures which will bear on the subject. I beg to move that the Bill be now read a second time.

The POSTMASTER-GENERAL said: As this Bill is considered to affect the revenue somewhat, hon. gentlemen may expect me to offer a few remarks upon it. The Hon. Mr. Walsh has accurately stated the position of matters with regard to the Brands Fund. If hon. gentlemen will turn to the Auditor-General's report, which was laid on the table a few days ago, they will observe that there was a sum of £15,124 6s. 5d. to the credit of the Brand Trust Fund on the 30th September last. The expenditure for the year ending 30th June last, in connection with matters arising out of the Brands Act, was £3,754 only; whilst the receipts from all sources under that Act, including assessments, transfer fees, and fines, amounted to £6,394; so that there was a surplus of income over expenditure of £2,640. This is a surplus that has been gradually increasing annually. The expenditure has been increasing, and the receipts have been proportionately increasing; so that actually every year we are gaining by this, or placing to the credit of the fund, a sum which should be considerably in excess of £2,000. It is anticipated that for the current year something like £3,850 will be required. The income for last year, hon. gentlemen will recollect, was £3,750; and therefore, assuming that the numbers of the stock will be stationary, at the present rate there will be considerably more derived than will be necessary for the anticipated expenditure. It is therefore proposed to reduce the assessment on stock by two-fifths, and to diminish the fee for the transfer of a brand, for which 10s. is an excessive amount, to 5s., which will be fairly remunerative for the amount of work it involves. Even if there were a deficiency by the present reduction it will take a very large number of years to reduce the amount to the credit of the fund. The Government therefore have no particular opposition to this Bill.

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

DIVISIONAL BOARDS AGRICULTURAL DRAINAGE BILL—SECOND READING.

THE HON. A. J. THYNNE said: Hon. gentlemen,—I move that this Bill be now read a second time. The object of the Bill is to make provision for drainage in agricultural districts in a way that cannot at the present time be carried out. The machinery which is provided by this Bill is as simple as I think can possibly be devised. In the first instance there must be a petition to the board signed by a majority of the ratepayers, or representing a majority of the votes of ratepayers, in a particular watershed in a division or part of a division. The board, on being satisfied that the required majority of votes are represented on the petition, have to appoint some person who is skilled or competent for the purpose, to prepare a scheme of drainage of this particular watershed. When the scheme is prepared, if the board approve of it, they have then to make a valuation, and the proceedings on valuation are practically what we are familiar with in the working of divisional boards on ordinary valuation and recovery of rates. There is power of appeal, and all the provisions necessary for that purpose. After the board have approved of them, the plans are to be submitted to the Minister; so that the plans or scheme of drainage has to go through a great deal of careful examination and criticism before it is adopted. The Minister may approve of the plans, or may return them for amendment, or otherwise facilitate the working of the scheme, which includes a provision for continuing the waterfall or outlet through another division if it should happen to be lower down the watershed. There is also a provision for enabling one division, if it has sustained any loss or damage by means of this interference with their ordinary rights, to recover compensation in the ordinary way of valuation or compensation. Then—assuming that the plans have gone through the necessary amount of criticism successfully—the Colonial Treasurer has the power of advancing to the board, by way of loan, the moneys necessary for carrying out the scheme. This is to be a special loan, and is repayable in thirty years in accordance with the provisions of the Local Works Loans Act of 1880. The other clauses give the board power to enter on land to carry out the different works, and also to pay claims for compensation to any persons whose property is injured by the works. In the 15th clause it makes provision for the repayment of the amount of this loan by way of a special rate to be called a “special drainage rate,” which is chargeable on all ratable property within the watershed upon which it appears by the valuation that any improvement will be effected by the scheme; and it will be apportioned in proportion to the amount of improvement which will be effected upon the respective properties. The 16th clause is a simple one, which makes provision for the recovery of rates. I may state, for the information of hon. gentlemen, that this Bill originated in consequence of the requirements of one district at least in this colony. The place which is known as Pimpama Island is one which requires a good deal of attention in the way of drainage, but such drainage cannot be carried out unless by the operation of the local divisional board having ample powers for the purpose. I do not think I am far out in saying that if a proper scheme is adopted for that particular place it will tend to improve immensely the value of property in that district, and set an example which, I am sure, will be followed in many other parts of the colony to which this Bill will be applicable. I do not pretend to say it is a Bill which will be applicable to all parts of the colony. I do not

think it is intended to be a complete Bill for drainage and irrigation, and that kind of thing, such as perhaps by-and-by we may have to enter upon; but it is a measure, at any rate, which will tend, I believe, to the initiation of useful drainage works in the colony. By-and-by perhaps the measure may be improved upon, when we get more experience. I trust hon. gentlemen will see that in this Bill a good attempt has been made to introduce a system of drainage, which is so badly wanted in some parts of the colony. I beg to move that the Bill be now read a second time.

THE HON. J. C. HEUSSLER said:—Hon. gentlemen,—I think it is rather an unfortunate thing that the Hon. Mr. Thynne should have brought forward Pimpama Island as an example of what may be done in the way of drainage under this Bill hereafter. I do not know whether hon. gentlemen are very much acquainted with Pimpama Island, but I happen to be so; and I may tell you that that island lies so low, and is affected by the ebb and flow of the tide to such an extent, that hardly any drainage is possible so as to make the land available for agricultural purposes. I make these few remarks, so that hon. gentlemen may not be disappointed hereafter if we find that the drainage of Pimpama Island is a failure. I am sorry to say that I have to speak from experience there. As I have observed, the land lies so low that it is very often under, or about equal with, flood-mark, and wherever salt water comes I believe very little benefit can be derived from drainage, unless we do as has been done in Holland and other places—construct dams and flood-gates—which, I am afraid, are too costly to be attempted here. I should be very glad to see drainage introduced into higher country, where great benefit might be expected to result from it. My own opinion is, that it was an immense blunder on the part of the Government to sell the land on Pimpama Island at all; at any rate, they ought only to have sold the portion that lies high. In order to get to the higher land you have to go through ti-tree swamps, all within flood-mark of salt water, and consequently I do not see the good that can be effected there by drainage. Of course, on the whole, drainage is a very useful thing; and I therefore hope the Bill will pass.

THE HON. A. C. GREGORY said: Hon. gentlemen,—The hon. gentleman who last spoke referred especially to Pimpama Island, and said that drainage could not be effective there because the tide rises so high, and in that he may, to a certain extent, be correct; but I wish to point out that this is a Bill apparently intended to provide for the drainage of agricultural land. But I would suggest to the hon. gentleman in charge of it that, before it goes into committee, he should consider the very important interests it applies to. If it dealt only with agricultural land, of course the amount of property that would be affected by it would be comparatively small, but as it stands it would cover a large portion of what is commonly termed the city of Brisbane. For instance, it would affect the question of drainage in the Booroodabin Division, the suburb of Paddington, and a large portion of what is generally viewed as South Brisbane—in the Woollongabba Division. The amount of property involved in those places is so very large and so important that, although I myself see no particular objection to the Bill, still I would suggest to the consideration of the hon. gentleman in charge of it that he should be prepared to deal with any question of that kind that may arise when the Bill goes into committee.

Question put and passed; and the committal of the Bill made an Order of the Day for Wednesday next.

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