Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 4 AUGUST 1886

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LEGISLATIVE COUNCIL.

Wednesday, 4 *August*, 1886.

Absence of the Postmaster-General.—Appropriation Bill No. 1.—Question of Privilege.—Settled Land Bill—third reading.—Patents, Designs, and Trade Marks (Amendment) Bill—committee.—Labourers from British India Acts Repeal Bill—committee.—Message from the Legislative Assembly.—Pacific Island Labourers Bill—second reading.—Pearl-shell and Bêche-de-mer Fishery Act Amendment Bill—second reading.

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

ABSENCE OF THE POSTMASTER-GENERAL.

The HON. W. H. WILSON said: Hon. gentlemen,—I regret to have to announce that the Postmaster-General is so severely indisposed as to be unable to be in his place this afternoon, and in order that public business shall not be delayed I have been requested to take charge of the business-paper. In the performance of this duty I trust I shall receive the assistance of hon. members, upon whose indulgence I am, of course, greatly dependent.

APPROPRIATION BILL No. 1.

The PRESIDING CHAIRMAN announced the receipt of a message from His Excellency the Administrator of the Government, giving his assent to the Appropriation Bill No. 1, 1886-7.

QUESTION OF PRIVILEGE.

The HON. A. C. GREGORY said: Hon. gentlemen,—In consequence of the severe indisposition of the hon. the Postmaster-General, it devolves upon me to present the report of the select committee appointed to inquire into the question of privilege as to the absence of members from this House, and I beg to move that it be printed.

Question put and passed.

SETTLED LAND BILL—THIRD READING.

On the motion of the HON. W. H. WILSON, this Bill was read a third time, passed, and ordered to be transmitted to the Legislative Assembly by message in the usual form.

PATENTS, DESIGNS, AND TRADE MARKS (AMENDMENT) BILL—COMMITTEE.

On the motion of the HON. W. H. WILSON, the Presiding Chairman left the chair, and the House went into Committee to consider this Bill.

Preamble postponed.

Clause 1—"Construction and short title"—passed as printed.

On clause 2, as follows:—

"Whereas subsection two of section eight of the principal Act requires a declaration to be made by an applicant for a patent to the effect in that subsection mentioned, and doubts have arisen as to the nature of that declaration, and it is expedient to remove such doubts: Be it therefore enacted that—

"The declaration mentioned in subsection two of section five of the principal Act may be either a statutory declaration under the Oaths Act of 1867, or not, as may be from time to time prescribed"

The HON. W. H. WILSON moved that in paragraph 2, line 1, the word "five" be omitted, with the view of inserting the word "eight."

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

Clauses 3, 4, and 5 passed as printed.

The HON. A. C. GREGORY moved that the following new clause be inserted, to follow clause 5 as passed :—

When an inventor is out of the colony an application for a patent may be made by an assignee of the inventor, either alone or, if the whole right of the invention is not assigned, jointly with the inventor.

In any such case the following rules shall be observed :—

(1.) The application must be accompanied by the instrument by which the invention is assigned by the inventor to the sole applicant, or the applicant who is not the inventor, as the case may be.

2.) The provisional specification or complete specification may be signed either by the first inventor, or by the assignee, or by both.

(3.) The form prescribed in the second schedule to the principal Act for making applications for patents shall be modified, so far as may be necessary, so as to set forth that the applicant, or one of the applicants, is the assignee of the inventor, and also, if the assignee is the sole applicant, that the inventor is in possession of the invention, and is the first and true inventor thereof.

The words of the clause were a sufficient explanation for its introduction, and he thought it was not necessary for him to give any lengthy explanation of its object further than to say that hitherto a great difficulty had arisen in the principal Act in regard to inventions communicated from abroad. If the Act had been stringently enforced, no invention could be communicated from abroad to any person in the colony and patented. The proposed clause would enable that to be done, and thus they would revert back to the custom in force before that which was the principal Act now was in existence, by which any person who was the original inventor or assignee of the inventor could obtain a patent.

The HON. W. H. WILSON said he might mention that the clause as proposed by the Hon. Mr. Gregory had been carefully considered, and was believed to be a very great improvement to the Bill.

Clause put and passed.

Clauses 6 and 7, and the preamble, passed as printed.

The House resumed, and the CHAIRMAN reported the Bill with amendments.

The report was adopted, and the third reading made an Order of the Day for to-morrow.

LABOURERS FROM BRITISH INDIA ACTS REPEAL BILL—COMMITTEE.

On the motion of the HON. W. H. WILSON, the Presiding Chairman left the chair, and the House went into Committee to consider this Bill.

Preamble postponed.

On clause 1—"Repeal"—

The HON. F. T. GREGORY said that when the question of the repeal of the original Act came up before he saw very strong objection to repealing it until occasion arose for re-arranging the terms on which labourers might be introduced from British India. The condition of the colony had very materially altered since then, and no doubt there was a very strong objection to the introduction of coloured labourers in any considerable numbers, so that he considered it better to do away with the present very inadequate enactments. Then at any future time special and ample provision might be made for the introduction of such labour, if considered desirable, by another enactment. In order to place prominently before the Committee what he meant, he would refer to the two Acts they were about to repeal. The first was an Act to give the force of law to regulations for the introduction and protection of labourers from British India, and the operative clauses were as follow :—

"It shall be lawful for the Governor with the advice of the Executive Council to issue by proclamation in the *Government Gazette* such regulations as may be necessary to provide for the introduction into this colony of immigrants from Her Majesty's East Indian possessions and for the maintenance control and protection of such immigrants.

"All such regulations being in accordance with the requirements of the Imperial Government in that behalf shall have the full force of law from the date of their publication by proclamation in the *Government Gazette* and shall at the earliest possible date be laid before both Houses of Parliament.

"Full provision shall be made in such regulations for the enforcement of agreements or indentures made between employers and immigrants from India and for the cancelling thereof and any two or more justices in petty sessions shall have power upon the hearing of any dispute between an employer and an immigrant to cancel such agreements or indentures if they shall see cause to do so."

That enactment was passed with the object of protecting labourers should they come to the colony. The other was a brief enactment—46th Victoria, No. 14—and was simply as follows :—

"No regulations made under the authority of the Act 26th Victoria, No. 5, shall have the force of law until approved of by both Houses of Parliament, which may alter or amend the same, anything to the contrary in the said Act notwithstanding."

The effect of repealing the two enactments would be that coolies who were British subjects in any part of the world, particularly British India, could be brought here by anyone who wished to engage them, always provided that the authorities of those countries raised no objection. The question occurred to him whether it was really meeting the wishes of the country to give additional facilities for the introduction of black labour, and it puzzled him to understand why the Government wished to repeal the Acts. Probably they would be prepared, in the event of a large number of coolies being introduced, to frame laws for their protection, guidance, or limitation, but it would have been more consistent to have left the present Acts on the Statute-book until they had something better to substitute. At the present time he had no objection to the repeal of the Acts, and should offer no opposition to the clause.

The HON. W. H. WILSON said he would simply point out that the Bill was in the nature of a repealing Act, and formed a safeguard against the introduction of coolies. It was in accordance with the policy of the Government, expressed during the last few years, and when the measure became law it would certainly prevent any Government in future from introducing coolies, or endeavouring to force regulations upon the House, in which they, of course, formed a majority.

The HON. G. KING said he concurred in the view taken by the Hon. Mr. Gregory that the repeal of the Acts would virtually leave the matter *in statu quo*, because it would then be in the power of individuals to introduce labourers, if they could get them, from British India. He had never been opposed to coolie labour, believing that it could be beneficially employed with advantage to the labourers themselves, and also to the European labourers. At the same time he should support the repeal.

The HON. A. J. THYNNE said the very existence of these Acts was an admission that the laws of the colony were not of themselves sufficiently strong to protect any labourer who might be brought here; but he did not think the laws of Queensland were of such a nature as to require special provision for any particular class of labourers. They were quite sufficient to protect whatever labourers

were introduced into the colony. He should always look with suspicion on the introduction of any class of labour many degrees below the ordinary class of labour employed in the colony. It was not a good thing to introduce an excessive quantity of cheap labour—certainly not to such an extent as to interfere with labourers already in the colony, or who might come to the colony in the future. He thought the removal of those Acts from the Statute-book would have the effect of removing the implied admission that the ordinary laws of the colony were not sufficient for the protection of whatever labourers might come to the colony. At the same time, he concurred with the Hon. Mr. Gregory in the opinion that it would leave it open to anyone to introduce Indian labourers if he could get them, but he did not think there was any danger to be apprehended from the introduction of coolies at the present time.

The HON. G. KING said that as the law at present stood it required regulations assented to by both Houses of Parliament; but by repealing the Acts there would be no restriction placed on the introduction of coolies.

The HON. A. J. THYNNE said the danger would be that, if arrangements were made in India with the concurrence of the Government of that country for bringing out labourers, the regulations under which they were engaged would have to be enforced by the Queensland Government. In the great majority of instances the labourers would be engaged at rates of wages considerably below what they could get in the colony, and he thought it would be a protection to the labourers themselves to have the statutes removed, because then they would be free to get what wages they could instead of coming under engagement.

The HON. W. H. WILSON pointed out that the objections which had been raised might have been noticed on the second reading of the Bill.

The HON. F. T. BRENTNALL said it appeared to be the opinion of some hon. members that the repeal of the Acts referred to would throw the door wide open for the introduction of coolie labourers from British India; but he thought the argument from the beginning of the discussion had been that the door would be effectually closed against the introduction of coolie labour from British India into the colony by the repeal of those Acts. He imagined that was the object of the Government, and he thought that there was a misapprehension on the part of some hon. members. One thing was certain—that the Indian authorities would not allow labourers to be indented for terms of labour in this colony without stringent regulations. They had already had experience of that. Some little time ago correspondence took place with the Indian authorities; in fact, a special agent was sent by the Government to India for the express purpose of ascertaining the conditions on which the Indian Government would allow coolies to be engaged for work in Queensland. The negotiations resulted in a series of regulations being framed and submitted for approval to the Government of Queensland. If the Government of the day, carrying out the conditions of the Act of 1862, had gazetted those regulations, then the coolies might have been introduced; and it was to prevent any Government from admitting coolie labour into the colony simply by gazetting the regulations that Parliament passed the Act of two years ago, which insisted that no Indian coolies should be admitted under any regulations which had not received the sanction of the Legislature. It was absolutely certain that the Indian Government would not allow coolies to be engaged for long terms of labour in Queensland, or in any other colony in the British Empire, without very stringent regulations, and he took it that the safeguard lay in that fact. Queensland would not be inundated with coolie labour if those two Acts were repealed, because when the Indian Government knew there was no Act in the colony authorising the introduction of such labourers, nor any Act regulating or attempting to regulate such labour, no such labourer would be allowed to leave British India for Queensland. He thought the effect of repealing those two Acts would be the very opposite of what some hon. members seemed to anticipate. He went thoroughly with the object of the Bill, inasmuch as it was undoubtedly the opinion of the large majority of the people of the colony that coolie labour should not be introduced. There might be laws, as the Hon. Mr. Thynne had stated, which would protect any class of labourers—protect them from personal injury—protect them also in the condition of their labour and their wages; but they would not be able to get labourers from British India without some accepted regulations framed by one Government and approved by the other. Either the Queensland Government must frame regulations to be approved by the Indian Government, or *vice versâ*; and until that was done they would be perfectly safe in Queensland from any invasion of coolie labour from British India.

The HON. A. J. THYNNE said the way to approach the subjects of British India was generally through the Government; but there was nothing to prevent men bringing labourers from that country to Queensland in many ways without requiring the sanction of the Indian Government at all. British-India labourers were found in other parts of the world, and there would be enormous difficulty in that Government preventing their subjects from leaving the limits of British India if they desired to do so. The Bill was, no doubt, equivalent to guarding the front door and leaving all the back entrances wide open, because when the Acts were removed from the Statute-book people would be at liberty to introduce as many labourers as they could get. That was where the Hon. Mr. Brentnall had missed the point raised by the Hon. F. T. Gregory and the Hon. G. King. Labourers could be obtained not only from British India, but from Singapore and Mauritius, and there would be no prohibition if the Acts were repealed.

The HON. F. T. BRENTNALL said the argument of the Hon. Mr. Thynne would have been a most excellent one before the first Act passed the Legislature of the colony. If there was at that time liberty for any person who wished to obtain coolie labour to so obtain it, and if there was no difficulty anticipated in obtaining such labour, why pass a Bill authorising people to get such labour? The Act of 1862 was not passed with the object of preventing people from getting such labour, but to enable them to get it under regulations which should be gazetted. Every hon. gentleman would remember that three years ago regulations were actually framed by the Indian Government, and submitted to the Government of Queensland, for the express object of enabling such labour to be introduced into the colony; and the Indian Government insisted that no labourers should be engaged there until such regulations had been approved and adopted in this colony. If the repeal of the Acts would enable anybody who might desire such labour to obtain it, there was the same freedom for people to obtain such labour before the first Act was passed. Then why was the original Act passed? Perhaps it was passed for the purpose of regulating the labour; it might be

looked at in that light. But the majority of the people of the colony have now decided that such labour should not be introduced under any conditions; that was the verdict of the country. If the Acts were repealed, there might be, as the Hon. Mr. Thynne had stated, opportunities for some people to bring a few coolies into the country as servants, and afterwards employ them in other ways; but he felt satisfied that an end would soon be put to that. If the Indian Government ascertained that coolies were engaged to come to the colony, and serve for a term of three years at certain wages, without any regulations enforced by the Government of the colony, except the common law, for their protection, a stop would soon be put to their introduction. Only last year the introduction of indented labour from the Continent of Europe was effectually blocked by the intervention of people in the colony—probably countrymen of those Germans and Danes whom it was sought to indent for work on sugar plantations—who did not wish to see their countrymen engage for such low wages; and correspondence would soon go to India, and the effect would be that the Indian Government would prohibit the obtaining of such labour there, so that there was not much to be feared from the repeal of the Acts.

The HON. G. KING said he was quite willing to accept it as the verdict of the country that black labour should not be introduced; but he believed that prior to the passing of the Act of 1862 the Hon. G. Sandeman introduced thirty coolies into the colony. That was done before the Act was passed; and if it were repealed he believed the door would be again opened to the introduction of coolies.

The HON. A. J. THYNNE said that when the Act of 1862 was passed the Imperial Government looked on the colonies as plantations, which was the common term for them in those days. It was then that the proposal was made for the Government to introduce coolie labour, with the co-operation of the Government of the country from which the labourers were to be introduced. The time for Government enterprise in the matter had gone by, but the time for private enterprise had not gone by; and that was why there was some ground for the danger which was apprehended. Private enterprise was in no way trammelled—at least it would not be when this Bill was passed. It would be completely untrammelled. For reasons different to those of the Hon. Mr. Brentnall, he approved of the Bill, because he thought there should be no restrictions placed upon British subjects. Let them have sound municipal and internal law sufficiently well prepared, so as to protect labourers of every class that came into the colony. Let the law be made so as to protect the Danes and Germans, whom it was proposed to introduce to supply the want of labour in the North. There, again, they would have seen the danger of encouraging men in foreign countries, and bringing them here at wages very much lower than the ordinary current wages, and which would necessarily lead to dissatisfaction and trouble in the colony. He thought it was better to at once take a proper stand and say everyone who came to the colony was to be on an equal footing, no matter what their colour or country might be, so that it might be known that all would receive equal protection.

The HON. F. T. GREGORY said he had only a few words to add to what he had already stated He had elicited the opinion of hon. members as to the probable effect of the repeal of the measures, and at the same time he could not help thinking that while there was some force in the observations of the Hon. Mr. Brentnall as to the Government of British India declining to permit coolies to be taken away in large bodies from India, still there was quite the possibility of such a change in their opinions as to make them rather desirous that the inhabitants should leave the country. It was not so very long since the last famine in India, when the Government were turning about to see what they could do to remove some of the surplus population in the more densely populated portions of the country. That might happen again any day, and his object was merely to get the opinion of hon. members as to what would be the probable effect of the enactment. He thought he had so far elicited opinion as to throw some light on the question, and which would enable hon. members to give their vote with some knowledge of the subject. The object of the British-Indian Government, in making regulations in regard to coolie emigration, was to protect British subjects from being imposed upon, from being ill-treated or in any way misled, and not receiving fair play. So far, the Indian Government were quite justified in their action, but they had been allowing emigration in very considerable numbers for the last twenty-five years without the emigrants being under any restrictions whatsoever. In regard to those who had emigrated to the Mauritius and West Indies, they had been under certain restrictions, but it must be remembered that the progress of intelligence and enlightenment among the Indian races had been very great within the last twenty years, and they were perfectly capable of making engagements to go to any part of the world. As British subjects, they did not labour under any disabilities such as the Russian serf used to do. Regulations were merely made to protect them, and he should not be at all surprised if at no distant date it was found that there was a very considerable influx of population into the northern regions of Australia—those portions which were more suited to the habits of the Indian coolie—particularly the northern provinces of South Australia. What he had said it had been his intention to have said on the second reading of the Bill, and he was only deterred from so doing in consequence of the lateness of the hour, and not having any desire to detain the House.

Clause put and passed.

Preamble passed as printed.

The House resumed, and the CHAIRMAN reported the Bill without amendment. The report was adopted, and the third reading of the Bill made an Order of the Day for to-morrow.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, forwarding for the approval of the Council the plans, sections, and book of reference of the Emu Park Railway deviation.

PACIFIC ISLAND LABOURERS BILL—SECOND READING.

The HON. W. H. WILSON said: Hon. gentlemen,—This is a very short Bill, and I will not detain the House long in moving the second reading. The object of the Bill is sufficiently stated in the preamble, which declares—

"Whereas by the Pacific Island Labourers Act of 1880 it is declared that the term 'Pacific Islander' or 'islander' shall mean a native, not of European extraction, of any island in the Pacific Ocean which is not in Her Majesty's dominions, nor within the jurisdiction of any civilised power: And whereas by reason of the recent acquisition of territory in the Pacific Ocean by civilised powers it is necessary that the said definition should be amended: And whereas it is desirable to amend the Pacific Island Labourers Acts, 1880-1885, in other respects: Be it therefore enacted," &c., &c.

That is the object of this Bill. The 2nd clause of the Bill is an important one, because it defines the word "islander" in such a manner that natives of all islands recently brought under European flags shall have the protection of the British flag. The term "Pacific Islander" is to mean and include, so far as regards islanders already in Queensland—

"Natives, not of European extraction, of any island in the Pacific Ocean which was not on the eighteenth day of November, one thousand eight hundred and eighty, within Her Majesty's dominions or within the jurisdiction of any civilised power."

This is rendered necessary by the changes of dominion in the Pacific. The term "islanders," as mentioned here, would have a different meaning in the original Act, and for that reason it is necessary that this Bill should be brought in. The only other clause that I would draw the attention of hon. gentlemen to is the 4th; and that states that "the provisions of the 24th section of the Pacific Island Labourers Act of 1880 shall apply to islanders who are registered as exempt from the provisions of the 3rd, 4th, and 10th sections of the Pacific Island Labourers Act of 1880 Amendment Act of 1884, as well as to other islanders." There is one other section—the 5th—providing that the cost of burial of any islander dying while under engagement shall be paid by his employer; that has been found to be necessary. I do not think there is any other matter that needs explanation, and I will therefore move that the Bill be now read a second time.

The HON. F. T. GREGORY said: This measure certainly seems to be required, inasmuch as it simplifies the principal Act, and, as far as I understand it, there appears to be nothing in it that can throw fresh impediments in the way of working the law as it now stands. Under those circumstances I see nothing to take exception to. The 5th clause, providing for the burial of islanders by the employer, may be taken by some persons to constitute a further protection of the islanders, but I rather think that employers have ample reason for kindly treating their labourers and thus retaining their services as long as possible. I am quite prepared to let the Bill pass.

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

PEARL-SHELL AND BECHE-DE-MER FISHERIES ACT AMENDMENT BILL —SECOND READING.

The HON. W. H. WILSON said: Hon. gentlemen,—This Bill may be said to be the outcome of certain grievances which the fishers of Thursday Island and Torres Straits seem to be labouring under, and which were brought under the notice of the Premier and the hon. the Colonial Treasurer on their recent visit to the North. The Bill itself is of great concern to those fishers, and I think that it provides for a great many things that will be of much importance to them and to their mode of carrying on business. Clause 2 provides for the more equitable adjustment of the license fees. Clause 5 provides that it shall not be lawful for any master or other person to engage any seamen except under written agreement recorded in the Custom-house. This has been found necessary. The license fee for boats has been reduced from 20s. to 10s. I believe that at the present time great irregularities exist, and much discontent is shown by the Malay and other Asiatic crews engaged in the trade. Under this Bill they will receive adequate protection, as that is one of the objects of the Bill. It also enables the authorities to supervise the issue of licenses; and, in fact, there are safeguards connected with the Bill which will enable the fisheries to be now carried on under proper supervision and protection to all parties who are connected with them. I beg to move the second reading of the Bill.

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

The House adjourned at twenty-two minu es 5 past o'clock.