Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 15 SEPTEMBER 1886

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LEGISLATIVE COUNCIL.

Wednesday, 15 *September*, 1886.

Messages from his Excellency the Administrator of the Government—the Federal Council—Assent to Bills. —Acting Chairman of Committees.—Customs Duties Bill—third reading.—Justices Bill—third reading.—Succession Duties Bill—committee.—Messages from the Legislative Assembly—Mineral Oils Bill—Health Act Amendment Bill—Settled Land Bill—Gold Fields Act Amendment Bill—Mineral Lands (Coal Mining) Bill—Marsupials Destruction Act Continuation Bill. —Local Authorities (Joint Action) Bill—committee.

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

MESSAGES FROM HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT.

THE FEDERAL COUNCIL.

The PRESIDING CHAIRMAN announced that he had received the following message from His Excellency the Administrator of the Government :—

"In accordance with the provisions of the 60th section of the Federal Council (Adopting) Act of 1885 (Queensland), His Excellency the Administrator of the Government informs the Legislative Council that His Excellency the Governor, with the advice of the Executive Council, was, on the 2nd day of January last, pleased to appoint

The Hon. SAMUEL WALKER GRIFFITH, Q.C., Vice-President of the Executive Council, Colonial Secretary, and a member of the Legislative Assembly; and

The Hon. JAMES ROBERT DICKSON, Esquire, Colonial Treasurer, and a member of the Legislative Assembly,

to be representatives of the colony of Queensland in the Federal Council of Australasia.

"Government House, Brisbane,
"14th September, 1886."

ASSENT TO BILLS.

The PRESIDING CHAIRMAN also announced the receipt of messages from His Excellency the Administrator of the Government, conveying the Royal assent to the following Bills :—

A Bill to constitute a Tribunal for the Trial of Election Petitions ; and

A Bill to amend the Immigration Act of 1882.

ACTING CHAIRMAN OF COMMITTEES.

On the motion of the POSTMASTER-GENERAL (Hon. T. Macdonald-Paterson), the Hon. F. H. Hart was appointed to act as Chairman of Committees during the absence of the Hon D. F. Roberts.

CUSTOMS DUTIES BILL.

THIRD READING.

On the motion of the POSTMASTER-GENERAL this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly by message in the usual form.

JUSTICES BILL.

THIRD READING.

On the motion of the POSTMASTER-GENERAL, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly by message in the usual form.

SUCCESSION DUTIES BILL.

COMMITTEE.

On this Order of the Day being read, the Presiding Chairman left the chair, and the House went into committee further to consider the Bill in detail.

On clause 7, as follows :—

"There shall be paid to the registrar, to be by him paid into the consolidated revenue of Queensland, by every executor, administrator of land or goods, and administrator with the will annexed, duty at the rates following, that is to say :—

Where the total value of the estate of the deceased person, after deducting all debts, does not exceed £100	No duty.
Where the value exceeds £100, and does not exceed £1,000... ...	2 per cent.
Where the value exceeds £1,000, and does not exceed £10,000...	3 per cent.
Where the value exceeds £10,000, and does not exceed £20,000 ...	4 per cent.
And over the value of £20,000 ...	5 per cent.

Provided that—

(1) When the widow of a testator, or the widow and children of a testator, or the children of a testator, is or are the only person or persons entitled under his will, the duty in respect of his estate shall be calculated at one-half only of the percentage aforesaid ; and when other persons are also entitled under the will the duty shall be calculated so as to charge only one-half of such percentage upon the property devised or bequeathed to the widow or children of the testator ;

(2) When a person dies intestate leaving a widow, or a widow and children, or children, the only person or persons entitled in distribution to his estate, the duty shall be calculated at one-half of the percentage aforesaid ; and when a person dies intestate leaving a widow and no children, the duty shall be calculated so as to charge one-half only of such duty upon the distributive share of the widow."

The HON. J. COWLISHAW moved the insertion, after the word "debts," of the words "and all moneys payable under any policy or policies of assurance issued by the Australian Mutual Provident Society." He thought most hon. gentlemen understood why he moved the amendment. As he explained the last time the Committee sat, it appeared to him that the 9th, 10th, and 14th clauses of the Bill would clash with the 14th clause of the Australian Mutual Provident Society Act.

The POSTMASTER-GENERAL said that when the Hon. Mr. Cowlishaw previously moved his amendment he did not quite see its relationship to the object of the Bill, and he gladly postponed the clause in order to see what effect the amendment would have on the Bill. He found on examination that it had no connection whatever with the provisions of the Succession Duties Bill, which were succinctly stated in the 2nd section as follows :—

"The provisions of this Act relate and apply to the estates of all persons dying after the passing of this Act leaving real or personal estate within the colony of Queensland."

That was its object, and all estates of whatsoever character would be affected by its provisions, with certain provisoes as to exemptions. The clause read by the mover of the amendment from the Australian Mutual Provident Society Act when the Committee last sat had reference to bankruptcy and insolvency, and was in effect a provision for protecting in certain cases the interests of the insured against the operation of the insolvency laws. It might be argued that the word "debt" in the 18th clause of the Australian Mutual Provident Society Act included all debts. The part of the 14th clause quoted by the Hon. Mr. Cowlishaw was as follows :—

"The property and interest of every member or his personal representatives in any policy or contract made or entered into *bonâ fide* for the benefit of such member or his personal representatives, or in the moneys payable under or in respect of such policy, or contract (including every sum payable by way of bonus or profit), shall be exempt from liability to any law now or hereafter in force relating to bankruptcy or insolvency, or to be seized or levied upon by the process of any court whatever."

Those were the two exceptions. Therefore it was quite clear that the amendment had no relationship to the Succession Duties Bill, which had a different object altogether, and did not relate to matters of insolvency, bankruptcy, or bad debts at all. It was well that he should also read the 2nd section of the Life Insurance Act of 1879. There again, in the marginal note there was the same phraseology as in the 14th clause of the Australian Mutual Provident Society Act—"Interest of insured protected in certain cases"—

"The property and interest of the insured in any policies of assurance *bonâ fide* effected upon his own life, shall not, in the event of his insolvency, pass to the trustee of his estate, nor shall the property and interest of the insured in such policy or the property and interest of his personal representatives in such policy, or the moneys payable under or in respect of such policy, be liable to be made available for or towards the payment of his debts by any judgment, decree, order, or process of any court, or in any other manner whatsoever."

Insolvency was referred to there again, but no one could contend that those exemptions in both Acts could possibly apply to this Bill before the Committee. It was necessary for legal purposes, as pointed out by the mover of the amendment, that the duty payable in respect of the estate of a deceased person should be deemed to be a debt. He need say no more, but he wished to assure hon. gentlemen that the proposition was one that should not be allowed even to go to a division, and he thought the Hon. Mr. Cowlishaw would see that the matter was not cognate to the Bill or any portion of it.

The HON. A. J. THYNNE said he thought the Hon. Mr. Cowlishaw in moving the amendment was guided by the impression that it was a kind of breach of the conditions under which the Australian Mutual Provident Society was established to impose a duty on policies which had become payable by that society. If the hon. gentleman would look at the Stamp Duties Act at present in force, he would see that there was no exemption for any life policies in regard to the payment of duties. As a matter of fact, all life policies had been obliged to pay probate and administration duties. That was the invariable rule, and had always been the practice. He concurred in what the Postmaster-General had said, that the amendment was not one that properly related to the Bill at all. Why a privilege should be given to the Australian Mutual Provident Society beyond any other society he could not see. They had no grounds for making that claim more than any other society, and why they should be asked to give that society a preference above other societies he could not understand. He thought the 14th section of the Australian Mutual Provident Society Act quoted by the mover of the amendment did not affect the question. Under the Mutual Provident Society Act no privilege was given which was not enjoyed by every other insurance company carrying on business in the colony. If there was any amendment desirable —he doubted whether any was needed—it was an amendment which would be extended to all life insurance societies and not to one society in particular.

The HON. G. KING said he could corroborate the statement made by the Hon. Mr. Thynne that policies in the Australian Mutual Provident Society did pay probate duties. He believed that under the Act referred to by the hon. the Postmaster-General, all other life insurance policies were subject to the same conditions. This Act was introduced in the first instance because, under the Act quoted by the Hon. Mr. Cowlishaw, it was thought that the Australian Mutual Provident Society had a privilege to which it was not entitled, and the subsequent Act

was brought in to put all life insurance companies in the same position. If they paid probate duty they must also be liable to succession duty.

The HON. E. B. FORREST said there was no desire on the part of the Hon. Mr. Cowlishaw or anybody else to give a preference to the Australian Mutual Provident Society. He only wished to be satisfied that the provisions of the Bill would not clash with the Australian Mutual Provident Society Act. If it was definitely stated that the Bill would not affect that Act, he, for one, would certainly leave it as it stood; otherwise he had made up his mind to vote for the amendment, because he thought the Bill did clash with the clause of the Act quoted by the Hon. Mr. Cowlishaw. All hon. members wanted was to be assured that the clause did not clash with the Australian Mutual Provident Society Act.

The POSTMASTER-GENERAL said he could state authoritatively that the Bill did not clash with the Australian Mutual Provident Society Act.

The HON. F. T. GREGORY said that as it was a question which deserved to be carefully and candidly dealt with he must say that when the Hon. Mr. Cowlishaw's amendment was first introduced it struck him that the Australian Mutual Provident Society Act provided for the exemption of policies issued by that society from probate duty, and he was certainly prepared on that occasion to support the hon. gentleman. But after looking carefully at the 14th clause alluded to by the Postmaster-General, he could not see that the Bill applied to moneys received under a policy of the Australian Mutual Provident Society. There was no intention in the Bill to protect those policies from paying probate duty, and under those circumstances he was unable to support the amendment.

The HON. F. T. BRENTNALL said he thought most hon. members would be satisfied that the object of the Hon. Mr. Cowlishaw in moving the amendment was to prevent what he anticipated might occur—namely, a collision between the Bill now before the Committee and an Act already in existence which protected the policies of the Australian Mutual Provident Society. He (Mr. Brentnall) did not for a moment think that the Hon. Mr. Cowlishaw's object was to give preference to the Australian Mutual Provident Society or any other insurance company, but he thought that at the time the amendment was moved most hon. members were of opinion that there would be a danger of future litigation unless some such amendment was agreed to. He, like other hon. members, had carefully looked into the matter since the House met last week, and it appeared to him now that everything depended upon the one word "debt," and he was certainly inclined to take the view that had been put before the Committee by the Postmaster-General that that word "debt" referred to any oppressive claims that might fall upon the participants of the benefits of a life insurance policy through the misfortune or fault of the assured. Insolvency might bring on such an unfortunate calamity. Other causes might bring misfortune on. There might be many debts in an estate of a deceased assured, and it would be an unfortunate thing if the little provision that had been made for the widow and children should be swallowed up by those debts. He took it that the two Acts which had been quoted were both intended to provide for such cases as those. There was another aspect of the question. He could not persuade himself that the Legislature of the colony intended, by protecting the Australian Mutual Provident Society in the manner that it and its assurers were protected, that the revenue of the colony should suffer so seriously as it would suffer if the amendment were carried and put into operation. It was most unlikely that the Legislature would give to any corporation an immense advantage of that kind, to the palpable injury of the revenue of the colony. Undoubtedly, if the amendment were to pass into law it would have the effect of very seriously injuring the receipts of the Treasury. Insurance policies held by people in the colony were very numerous, and the amounts covered by them in many cases were very heavy; at any rate, taking the aggregate amounts of the assured, they would amount to a considerable sum, and as they fell in to exempt them from succession duties would mean a very great loss to the Treasury. And that brought him to the main point: Had they any constitutional right to interfere with the Succession Duties Bill and insert matter which unquestionably would very seriously affect the revenue of the colony if it was inserted? Looking at the question in those lights he thought that he for one had been under a little misapprehension. The Hon. Mr. Cowlishaw might still hold to his own opinion, but he thought he personally had been under a misapprehension, and he believed that the debts intended to be provided for did not include a debt that would be included by the neglect of executors or trustees to pay succession duty on insurance policies.

The HON. A. J. THYNNE said there was another point to which he would like to draw attention. Assuming that the Australian Mutual Provident Society Act, when it was passed, was intended to give policies the exemption which was now claimed for them, still it was a matter of constitutional usage, of law, and practice—in fact, it was a constitutional right that every person in the colony—every person of every interest in the colony, no matter what exemption or privileges they might have received, were liable from time to time with the rest of society to bear the expenses of government. The Australian Mutual Provident Society, and those who were insured with it, were liable to be subjected to an additional tax, if the interests of the State required it. That was a part of citizenship as regarded private individuals, and it was a duty which companies and societies had to submit to from time to time; so that as a matter of constitutional law he thought it would be found that it was not in the power of one Parliament to pass an Act which would give privileges which could not be affected by subsequent enactments, and if there was any collision between the two, the later enactment invariably had the greater effect.

Question—That the words proposed to be inserted be so inserted—put and negatived.

Clause 7 put and passed.

Preamble put and passed.

The House resumed, and the CHAIRMAN reported the Bill with an amendment.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee for the purpose of further considering clause 3.

The POSTMASTER-GENERAL said, in moving that the words "children shall include grandchildren" be omitted at the end of clause 3, he took the opportunity of stating his belief that some hon. gentlemen regarded that amendment when the Bill was last in committee more from the sentimental point of view than from the other aspect of the question—the constitutional aspect; and he understood that there was a desire that, in order that the Bill should become law as early as convenient, and also in order not to delay the somewhat important

financial measures of the Government, the clause should be recommitted, so that those words might be omitted. He did not think it was desirable, nor was it convenient, to enter into a discussion upon the constitutional aspect of the question. That it was involved there was no doubt, but he would content himself by moving that the words "children shall include grandchildren," as previously inserted in clause 3, be now omitted.

The HON. F. T. GREGORY said that was a question which had been considered by a tolerably full House, and notwithstanding the observation made by the Postmaster-General that the opinions of some hon. members who had voted for the amendment were influenced by matters of sentiment, he could not altogether agree with him. It was possible that might be so, but he did not quite see where the sentiment came in; it was simply a matter as to what was deemed to be reasonable, or fair, or just towards the children of a testator, and whether that should not extend a little further to grandchildren, because, as in many cases, as had been previously pointed out, the immediate descendants were deceased, and the property had come direct to the grandchildren. That was a usual provision made in wills, and under those circumstances why the grandchildren should be made to pay a higher rate than their parents would have had to pay he could not see. It had been contended in support of grandchildren paying the higher rate, that if their parents had lived they would have had to pay the half-rate, and the children would also have to pay one-half rate when they inherited from their immediate parents; but he did not see the logic of that, as the grandchildren stood directly in the same position to their grandparents, under the circumstances to which he referred—the parents being dead—as the children themselves would. Furthermore, there was the very important point to be considered, that where property went directly to the children there was no absolute certainty that it would ever descend to the grandchildren, because in these days comparatively few people required any specific sum of money that they bequeathed should pass on *in globo* to their grandchildren; the children themselves were left to dispense the money as they thought fit, and it did not follow that it would descend to their children; while if there was real property in question, under the Real Property Act succession duty would have to be paid. The whole question narrowed itself down to this: Was it not a reasonable amendment that grandchildren should be placed in the same position as children where they inherited immediately from a grandparent? Putting all sentiment on one side, it struck him that that was a reasonable and fair provision. It might be argued that the same principle might be applied to any number of generations; but he failed to see that that would hold, because it was improbable that the original parent could know very much about his great grandchildren, but grandchildren commonly fell in to succeed their grandparents. Under those circumstances the amendment was one that might very fairly be accepted, and for his own part he should certainly vote for its being retained in the Bill.

The HON. G. KING said if he was considered to be still *in loco penitentiæ*, he asked permission to cry "*Peccavi*," for he had certainly voted against the constitutional principle that that House had no right to amend a money Bill. He must confess, as his friend Mr. Gregory pointed out, that he was carried away to a certain extent by sentiment, but it was the persuasive eloquence of the Hon. Mr. Thynne who touched a sympathetic chord in him, that caused him really to forget the constitutional question, that that Chamber had no right to amend a money Bill. The Bill before them was, in fact, a revenue Bill, but in reality he did not think the amendment made any material difference, because a son succeeding to his father's estate would pay 2½ per cent., and his children succeeding again would have to pay another 2½ per cent., and therefore in a pecuniary sense it made no very great difference to the grandchildren whether they paid at once or in the future. He should vote in favour of the omission of the words, and in that way reverse his former vote.

The HON. A. J. THYNNE said he thought the last speaker had been rather hard upon him in throwing upon him the burden of what he considered to have been a mistake, but which he (Hon. Mr. Thynne) really thought was not a mistake on his part. He thought still that it was not right to put upon grandchildren a heavier duty than was put upon children. It was a hard and very harsh state of the law indeed when they found that grandchildren, who were generally more in need of tenderness and light treatment than children, were compelled to pay a heavier duty. He still thought they ought to retain the amendment moved by the Hon. Mr. Cowlishaw, and he should vote for its retention.

The POSTMASTER-GENERAL said he would like to say one word with reference to what had fallen from the Hon. Mr. Thynne, and that was that with his limited experience of the world he found that grandchildren were usually better off than the children who succeeded to an estate. Throughout the whole of his experience he had found that to be the case.

The HON. A. C. GREGORY said the amendment simply had the effect of providing that if a father left his property to his children then the property would go down to the grandchildren with half-duty. If a son or daughter died leaving young children, it did not seem to him a fair thing that they should be charged double the duty which their parents would have been charged. Grandchildren were far less likely to be in a position to maintain or support themselves or bear any extra taxation than their parents, so he certainly thought that the amendment should be supported and maintained.

The POSTMASTER-GENERAL said there were one or two members present that afternoon who were not present when the amendment was debated and carried, and it was just as well that he should point out that the inclusion of the words now proposed to be omitted meant that they would have carried an amendment in a money Bill. Every hon. gentleman knew that the revenue would be affected if the amendment was included in the Bill, and he thought it well to ask them to bear that point in mind.

The HON. F. T. BRENTNALL said he was quite sure when the Hon. Mr. Cowlishaw moved the amendment he had no intention of going beyond the particular cases which had already been referred to that evening. His object, if he understood him rightly, was to provide for those cases in which, before the benefits of a will accrued, the parents of grandchildren had died. The amendment was not intended to apply to grandchildren specifically benefited under a will by bequest, the parents still living. It was intended to apply only to children whose father or mother had died. Those were the particular cases to which the amendment was intended to apply, and even at that moment he was bound to say that his sentiments still went with the amendment. He voted for it on the previous occasion, and he should vote for it again if he yielded to mere sentiment, but he could see very plainly that another important consideration must come in, and he was

satisfied that in an important Bill like that, which should, as quickly as possible, pass into law, by refusing to omit those words they should jeopardise the passage of the Bill. It was not because he had changed his opinion upon the subject that he should vote against the words being included in the Bill, but it was because he recognised that he had no right to interfere with a Bill of that kind that he supported the Postmaster-General.

The HON. J. C. HEUSSLER said he did not look at the question in the same light as the last speaker; he did not think they were interfering with a money Bill, but were interfering with the grandchildren. He did not see any constitutional question involved in the matter. What was the use of giving them a Bill of that kind to pass if they had no right to amend it or interfere with it in any way? The better course would be not to bring a Bill of that kind up to the Council's Committee at all. He could not see the constitutional question that was involved, and as to their ability to amend the Bill, he believed that was acknowledged. That was his humble opinion upon the subject. Of course, hon. gentlemen must understand that he still held the old view that the Council had a right to amend money Bills, but as he held that opinion, and believed at the same time that the constitutional question was not before them, he should abstain from voting altogether.

The HON. J. D. MACANSH said when the question came before the Committee last week he voted against the amendment, because he considered that they had no right to interfere in any way by amending a money Bill, and he intended to vote in the same direction upon the question now before the House. Looking at the duty from the other side of the question, and referring to the 7th clause, he saw that no duty was payable on small sums. Where the value exceeded £100, but did not exceed £1,000, a duty of 2 per cent. was payable, so that on £1,000 the duty would be £20. Where the value exceeded £1,000, and did not exceed £10,000, the duty was 3 per cent.; and where the value exceeded £10,000, but did not exceed £20,000, the duty payable was 4 per cent.; and on larger sums the duty was 5 per cent. Where there was only a small sum of money left the duty was not high and would not press heavily. Where there was a large amount left the people who received it could very well afford to pay the duty. In most cases grandchildren would be very young when the money was left, and during their minority it would increase to an immense amount, so that they would be in a far better position than children to whom money was left. He had known cases where money had been left to children, and during their minority the accumulation had been such that when they attained their majority they had large sums of money, and the youngest had a great deal more than the elder ones on coming of age. He thought it only right that young grandchildren should be put in as good a position as their fathers, and he thought that under the Bill as it stood they were in a far better position, as the accumulations during their minority would place them in a better position. He therefore thought that hon. members should vote for the Bill as it stood, without taking into consideration the question as to their power to amend a money Bill.

The HON. A. J. THYNNE said it was not in the interests of grandchildren to whom sums of £20,000 were left that he spoke, but in the interests of those who received sums under £1,000. Those were the ones who required to be eased of the burden. It was one of the hardest things for the Government to exact a heavy duty from those grandchildren who received small sums of money. He agreed with the hon. member that those who had large sums could very well afford to pay the duty, but he regretted that the limit in regard to sums exempted from duty had been placed at £100. If some hon. gentlemen possessed the experience that he had in dealing for many years with small estates worth £100, £200, £300, £400, or £500, and the difficulties under which young children had been placed, they would be inclined to lay aside the constitutional question and give fair and liberal terms to those people. He thought the duty in regard to sums of £200 or £250 might very well have been left alone.

The HON. A. HERON WILSON said there was a great deal of time taken up over money Bills. The Postmaster-General told him the other day that hon. members could discuss such a Bill as much as they liked, but he (Hon. Mr. Wilson) did not see any good in discussing a Bill when they had no power to amend it, no matter what faults they might find with it, or what amendments they might be able to make—for the simple reason that it was a money Bill. He thought the sooner the Constitution was altered, so as to let hon. members know what they could do or what they could not do, the better. As it was they were in a false position. Money Bills were brought before that Chamber, and they were told they could discuss them, but he could not see any earthly use in discussing them when they could not amend them, no matter what faults they might find with them.

The HON. A. J. THYNNE said that in the ordinary construction of wills the word "children" included "grandchildren"; and he thought they could fairly say the intention of the Bill was that grandchildren should be included. He therefore thought the amendment proposed by the Hon. Mr. Cowlishaw was not an amendment affecting a money Bill in the way it had been contended, but an amendment intended to make clear a doubtful point in the construction of the Bill. For that reason he thought they were quite justified in retaining the amendment.

The POSTMASTER-GENERAL said that was rather a flimsy pretext for seeking the support of hon. gentlemen. Everybody knew what the hon. gentleman referred to; but he had lost sight of the sentence uttered by him (the Postmaster-General)—that it was specifically intended that grandchildren should be excluded. If there was any doubt on the subject the amendment should say that the term "children" did not include grandchildren. The amendment should take that shape in order to carry out the intention of the framers of the Bill and of the Legislative Assembly.

The HON. A. J. THYNNE said he was not aware, though hon. members always paid a great respect to the statements made by the leader of that Chamber, that they were strictly bound to accept his interpretation of the intention of the Assembly in regard to Bills sent to the Council from the Assembly. They came from the Assembly, not from the Government, and hon. members had a right to read them and discover their intention irrespective of any explanation which the Postmaster-General or any other hon. member might offer to them. Of course, they could accept—as they always did—with very great respect, the statements made by the Postmaster-General in that Chamber, but they were not prevented from taking their own construction of the wording of a Bill sent to them from the Legislative Assembly.

The POSTMASTER-GENERAL said the Hon. Mr. Thynne had stated that it was the intention of the framers of the Bill to include "grandchildren" by using the word "children."

He (the Postmaster-General) had stated that it was the intention of the framers of the measure to exclude grandchildren.

Question—That the words proposed to be omitted be so omitted—put, and the Committee divided:—

CONTENTS, 8.

The Hons. T. Macdonald-Paterson, J. D. Macansh, W. F. Taylor, W. Horatio Wilson, F. T. Brentnall, G. King, F. H. Holberton, and W. Pettigrew.

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The Hons. F. T. Gregory, A. C. Gregory, J. Taylor, A. J. Thynne, W. G. Power, W. Aplin, J. Cowlishaw, J. S. Turner, and E. B. Forrest.

Question resolved in the negative.

Clause, as amended, put and passed.

On the motion of the POSTMASTER-GENERAL, the CHAIRMAN left the chair, and reported the Bill without further amendment.

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

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

MINERAL OILS BILL.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, intimating that the Assembly had agreed to the amendment in clause 5, line 31, with an amendment substituting the words "Colonial Treasurer" for the words "Collector of Customs," in which amendment they invited the concurrence of the Council; and agreed to the remaining amendments made by the Council.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider the message.

The POSTMASTER-GENERAL moved that the Committee agree to the amendment made by the Legislative Assembly.

Question put and passed.

On the motion of the POSTMASTER-GENERAL, the CHAIRMAN left the chair, and reported the resolution to the House.

The report was adopted, and a message ordered to be sent to the Legislative Assembly intimating that the Council concurred in the amendment made by the Assembly on their amendment.

HEALTH ACT AMENDMENT BILL.

The PRESIDING CHAIRMAN annnounced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to amend the Health Act of 1884.

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 Wednesday next.

SETTLED LAND BILL.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, returning this Bill with a schedule of amendments, in which they invited the concurrence of the Council.

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

GOLD FIELDS ACT AMENDMENT BILL.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to amend the Gold Fields Act of 1874 so far as regards mining under reserves and on lands excepted from occupation for mining purposes.

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 Wednesday next.

MINERAL LANDS (COAL MINING) BILL.

The PRESIDING CHAIRMAN read a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to amend the Mineral Lands Act of 1882 so far as regards mining for coal.

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 Wednesday next.

MARSUPIALS DESTRUCTION ACT CONTINUATION BILL.

The PRESIDING CHAIRMAN announced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to continue the operation of the Marsupials Destruction Act of 1881.

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 Wednesday next.

LOCAL AUTHORITIES (JOINT ACTION) BILL.

COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider this Bill in detail.

Preamble postponed.

Clauses 1, 2, and 3 passed as printed.

On clause 4, "Interpretation"—

The HON. A. C. GREGORY said in that clause there was an interpretation of the term "main road," and he thought that that would be a convenient time to go into the question. Although the term was used further on in the Bill, it would be just as well to discuss the merits of the case on the interpretation clause. "Main road" was defined as follows:—

"A road which, being a main thoroughfare, passes through the districts of two or more local authorities, or is a boundary road abutting upon the districts of more than two local authorities, or fulfils both these conditions."

Now, they had got to deal with the question of a main thoroughfare. The term "thoroughfare" simply meant a road that was not blocked at the end, and ran into some other line of communication—a road which could be passed through and out at either end. But beyond the mere expression "main thoroughfare" there was nothing in the Bill to show what was meant by it. Then, again, if they merely took the interpretation that it was a road which passed through the districts of two or more local authorities, there was hardly a road in the country that could not be traced on and on and on to any extent, and which might be termed by some a main road. One board would say "This is a main road, because it terminates at such a point," and another board would argue that it was not a main road because it ran into another road further on, and so the argument would go on

and the matter would be left in a perfect fog. If a main road could be made to mean something really definite, and a definition used about which there would be no cavil or dispute afterwards, then they might be able to deal with the term. "Main roads" were mentioned in another part of the Bill, and although it was not customary to debate anything but the clause under consideration, still they might just as well refer to what the effect of the definition would be. There was only one single allusion in the body of the Bill to a main road until they got pretty well on in the measure, and came to clauses 36 and 37. Clause 36 dealt with the question of the care and management of bridges which might be upon a main road, and it said that certain matters might be dealt with; but it depended upon whether the road was a main road or not, and so loose was the interpretation of the term that it did not appear how any final conclusion could be arrived at unless the Minister was appealed to to decide what was a main road and what was not. It would be far better to say at once that in the case of any difficulty arising the matter should be referred to the Minister; that would be much more simple than introducing such a term as "main road" into the Bill. Then, again, if they went on a little farther in clause 36, and read the 3rd subsection, it would be found that it said:—

"No proceedings shall be taken under this section to compel a contribution towards the maintenance of a bridge which does not lie between the district of the local authority which is so requested and a town or centre of population."

Now, a town was really such an indefinite thing in this country that hitherto the only way in which they had ever been able to find a meaning for the term was in cases where town allotments had been proclaimed, or a town reserve had by proclamation been established. But they well knew that the whole of the country was dotted over with town reserves and town allotments, and to call those places towns for the purposes of the Bill would be utterly absurd. Many of them had no population whatever, and yet they were to be termed towns. Many of them consisted simply of a public-house, a small store, and a blacksmith's shop. Then, again, the term "centre of population" was also exceedingly vague, and it seemed to him that it would be far better to drop the whole question of main roads altogether. He hardly saw how they could succeed in maintaining the clause. Clause 37 dealt with the same matter, and the whole question turned upon the meaning of the term "main road." If a main road could, under the interpretation clause, be made to mean such a road as the Minister or Government might proclaim and declare to be a main road, then they would have a far more simple way out of the difficulty; and in the case of a quarrel arising between two local authorities, the Minister might step in and settle the difficulty in that way. As the Bill stood at present, two local authorities had only to quarrel or decline to agree, and then there was nothing in the Bill to compel them to act except reference to the Minister. He did not wish to embarrass the Government in that matter, but he wished to see the question dealt with in a reasonable way, so that when the divisional boards came to act they would be able to see what they had to do. He would move the omission of the whole paragraph relating to main roads.

The POSTMASTER-GENERAL said that, in accordance with an arrangement previously come to with the hon. gentleman, he would move that the clause be postponed.

Clause postponed accordingly.

Clauses 5, 6, 7, and 8 passed as printed.

On clause 9, as follows:—

"In the exercise of the powers hereby conferred, regard shall be had to the wishes of the several local authorities which, or the districts of which, will be affected by the Order in Council. But the Governor in Council shall not be bound to wait for any representation of the wishes of any local authority before exercising any of the powers hereby conferred, or to comply with any such representation."

The HON. F. T. GREGORY said the clause was very good so far as the latter part of it was concerned, but he saw no provision made for the way in which the local authorities were to place their wishes before the Government of the day. No doubt it might be said that the Government would always attend to any representation made by public bodies, but he should like to see some explanation inserted in the Bill of the way in which those wishes were to be brought under the notice of the Executive. Perhaps the Postmaster-General could explain what his views on the question were.

The POSTMASTER-GENERAL said it was very much better that the local authorities should be left to determine in what way they would approach the matter, because divisional boards and small municipal councils had their own way of dealing with such matters. Sometimes it was by deputation, sometimes by letter; on other occasions by petition, sometimes by telegram, and sometimes representations were made by the member of the Legislative Assembly who represented the particular district in which the local authority existed. There had been no difficulty in the past in the way of local authorities giving expression to their views, and it appeared to him very much better to allow them to use such means as they thought proper to give expression to their wishes.

The HON. F. T. GREGORY said he would just point out that the cases to which he most immediately referred were where a divisional board or a portion of the ratepayers of a division were desirous of being formed into a shire council, and it was only a very few days since he had been asked by several ratepayers who were desirous of forming a shire council what would be the proper course for them to pursue. As the law now stood, they could do it by petition, but a mere representation by a limited number of ratepayers, unless it came in the form of a petition, would have no weight. Of course, it would be better for them to make it clear what would be the proper course for the ratepayers to take to obtain the object they had in view.

The POSTMASTER-GENERAL said as the Bill referred entirely to the question of joint local authorities, it would be unwise to describe any course of action that might be taken by ratepayers themselves. The local authorities generally would express themselves in some such mode as he had intimated, but the method by which a shire council might be formed was to be found in other Acts. He was inclined to be under the same misapprehension as the hon. gentleman at first, but it must not be forgotten that the Bill strictly referred to the action and constitution of joint local authorities. He quite perceived the object of the hon. gentleman, but he thought he would agree with him that the matter he had in view was outside the scope of the Bill.

Clause put and passed.

Clause 10 passed as printed.

On clause 11, as follows:—

"In the case of a joint local authority, constituted for administrative purposes only, the Governor in Council may dispense with any of the provisions of the last preceding section relating to the number and relative proportions of members of the joint board, and requiring that there shall be a representative or representatives of, and appointed by, every local

authority having jurisdiction within the district of the joint local authority, and may direct that any two or more of the component local authorities shall proceed in such manner as may be directed by the Order in Council to elect one or more members of the joint board, and that another or other of the component local authorities shall separately elect a member or members.

"And when two or more local authorities so directed to proceed to elect a member or members, fail to do so for one month after the constitution of the joint local authority, the Governor in Council may appoint some ratepayer or ratepayers of one of the municipalities or divisions of such local authorities to act as such member or members.

"For the purposes of this section, the term 'administrative purposes' means and includes any of the following purposes—

(1) Regulating traffic;
(2) Licensing and regulating porters, public carriers, carters, water-drawers, and vehicles plying for hire;
(3) Imposing and collecting license fees for any of such purposes, and expending the moneys raised by means of any such fees;
(4) Making and enforcing by-laws relating to any such purposes;
(5) Such other purposes as all the component local authorities concur in referring to the joint local authority so constituted."

The HON. A. C. GREGORY said that the clause modified the operation of clause 10. Clause 10 pointed out how a joint board was to be formed under ordinary circumstances, in which case every local authority would appoint at least one representative. Clause 11 provided that in some cases two or more local authorities could appoint one member to represent them jointly. No doubt the intention of the clause was to avoid the formation of large bodies for the purpose of management, but he did not see that very serious difficulty would arise from that. If two or more local authorities could appoint one representative, there would be great difficulty in finding an individual whose views would suit them both, but it would not be difficult to find one for each. He did not see in what way they could amend the clause, because if they made any amendment to get rid of the objection, then clause 10 provided for all cases. He thought the best course would be to omit the whole of clause 11. He would therefore move that it be omitted.

The POSTMASTER-GENERAL said the proposal of the hon. gentleman would require some consideration, but he must say that he was unable to see any objection to the clause. Clause 10 related to the constitution of joint boards, and clause 11 contained a useful provision to define the term "administrative purposes." The appointment of one representative for two local authorities was not compulsory, and there would be cases where two or more local authorities would be of one mind, and would agree that one representative would be quite sufficient to represent them in the matter in which they had a common interest. He thought it better to preserve the flexibility of that part of the Bill because, as he had stated, two or more local authorities were not bound to appoint only one representative. If the hon. gentleman desired it he had no objection to postponing the clause in order that they might have time for further consideration, but nothing had been stated which would justify him in adopting the hon. gentleman's view that the clause should be excluded from the Bill.

The HON. A. C. GREGORY said what he wished to point out was the great difficulty of allowing two or more local authorities to appoint a joint representative. Take a possible case. There were a large number of small municipal bodies who came within the scope of the water supply of the city of Brisbane, and it would be quite possible and within the power of the Government, under the clause, to appoint two representatives for the outside districts and two for the city of Brisbane. The consequence would be that the city of Brisbane would practically have the whole control over the works because no person could really be found to represent all the outside bodies which had so many diverse interests. No doubt the Government would do its best to find a really representative man, but he was almost certain to be a failure. Perhaps it would be convenient to adopt the suggestion of the Postmaster-General and postpone the clause, and hon. members would then be better able to judge whether his view of the case should be adopted. He did not look upon it as a vital question, but they should be careful not to introduce a difficult element into the Bill.

The POSTMASTER-GENERAL moved that the clause be postponed.

Clause postponed accordingly.

On the motion of the POSTMASTER-GENERAL, the CHAIRMAN left the chair, reported progress, and obtained leave to sit again to-morrow.

The House adjourned at 6 o'clock.