

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 1 SEPTEMBER 1887

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LEGISLATIVE COUNCIL.

Thursday, 1 September, 1887.

Postponement of Motion.—Question.—Motion for Adjournment.—Copyright Registration Bill—third reading.—Australian Joint Stock Bank Act Amendment Bill—second reading.—Valuation Bill—committee.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

POSTPONEMENT OF MOTION.

The HON. W. H. WALSH said: Hon. gentlemen,—I feel that it is rather inconvenient for me to go on with the motion I have on the paper calling for a return showing all grants, endowments, and loans received by the several municipalities, shire councils, and divisional boards. The reason I feel it inconvenient is that I have not a return which I moved for a long time ago, and which was granted by this House. I think that return ought to have been in the hands of hon. members by this time. The Government Printing Office must, I think, in delaying the return, have taken advantage of the newness of the Postmaster-General to his duty of protecting the rights and privileges of this House. I maintain that ample time has been given for its publication, and that it ought to have been furnished; and I think I am justified in saying that I know the return was in print yesterday. I must freely confess that I am placed at some disadvantage in not being able to couple the remarks I intended to make this afternoon with a reference to the information which should be contained in that report, and which I had hoped would be in the hands of hon. members to-day. Under the circumstances I feel bound to postpone the consideration of the motion on the paper till next sitting day.

QUESTION.

The HON. W. D. BOX asked the Postmaster-General—

1. Do the Government intend to resume the practice, lately discontinued, of issuing return tickets to persons travelling on the railways in the colony?

2. If so, when?

The POSTMASTER-GENERAL (Hon. W. Horatio Wilson) replied—

The Government have no present intention of resuming the practice of issuing return tickets, which was discontinued some years ago.

MOTION FOR ADJOURNMENT.

The HON. W. D. BOX said: Hon. gentlemen,—I desire to trespass on the time of the House for a few moments, and will conclude with a motion for adjournment. To my mind the question of the issue of return tickets to persons travelling on the railways of the colony is one of considerable importance.

The PRESIDENT: Is the hon. gentleman making a special motion? It is out of order for him to discuss an answer to a question.

The HON. W. D. BOX: Perhaps the President did not hear me, but I mentioned that I intended to move the adjournment of the House. I suppose that is in order.

The PRESIDENT: Not for the purpose of discussing the answer to a question. That would be very irregular. The hon. member must make the motion at another time.

COPYRIGHT REGISTRATION BILL.

THIRD READING.

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

The HON. W. H. WALSH said: Hon. gentlemen,—Before that question is put I wish to point out a matter to which I was not able to give consideration when this Bill was passing through committee. I think it would be difficult to determine to what institution the 7th clause refers when it mentions the Museum. I find that the word "Museum" is defined in the 1st paragraph of the section, but in a very vague way. It simply says that—

"Within six months after the day on which any book first published in Queensland after the passing of this Act is first sold, published, or offered for sale within the colony, and before the copyright therein is registered under this Act, a printed copy of the whole of such book, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, and bound, sewed, or stitched together, and upon the best paper on which the same is printed, shall be delivered by the publisher at the Museum and at the Parliamentary Library in Brisbane."

I think that is indefinite, so indefinite that the provision will probably be evaded. In England the word "British" is inserted before "Museum," and I think in this case we might use the term "Colonial Museum," or "Brisbane Museum." The word "Museum" is not sufficient, as an author might be ingenious enough not to distinguish between the Museum in Brisbane and another museum in the colony.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I regret that the Hon. Mr. Walsh was not in his place when this Bill was going through committee. I do not, however, think that there will be any difficulty in the matter, as the hon. gentleman has suggested. It is very well understood that there is only one museum, and that is the place where the books have to be delivered.

Question put and passed.

On the motion of the POSTMASTER-GENERAL, the Bill was ordered to be returned to the Legislative Assembly by message in the usual form.

AUSTRALIAN JOINT STOCK BANK
ACT AMENDMENT BILL.

SECOND READING.

The Hon. P. MACPHERSON said: Hon. gentlemen,—I have the honour to move the second reading of this Bill, the object of which, as stated in the 1st clause, is to repeal so much of the 3rd section of the Australian Joint Stock Bank Act as enacts that it shall not be lawful for the said corporation to advance or lend any money upon the security of lands. By the 3rd section of that Act, which was passed in 1853, the bank is precluded from making advances, except by way of equitable mortgage upon deeds or other documents as collateral security, but by a further section of that Act they may take a mortgage for past advances—a course of proceeding which is not always safe under certain provisions of the Insolvency Act of 1874. It is, I submit, only fair that this bank should be placed upon an equal footing with other financial institutions incorporated under the Companies Act of 1863, and be enabled to make present advances upon the security of land. Looking at the tendency of modern legislation, and at the interests of commerce, there is no reason, I think, why they should not be allowed what I may call this concession. This is a concession to them, because it removes a restriction from their incorporating Act. I do not think it is necessary that I should refer to any details of the evidence taken before the select committee of the Legislative Assembly. I may, however, read part of it. Mr. Kerr, who is the assistant manager of the bank in Brisbane, in answer to the chairman, gave the following evidence:—

“You are the manager of the Australian Joint Stock Bank—Sydney branch? Of the Brisbane branch, assistant manager.

“You allege in the Bill before the committee that you are interrupted in the transaction of business in consequence of some imperfections in the present Act? Yes.

“Would you kindly tell us what form or forms such interruption takes? The Act allows us to take security for past debts only; and there is some element of danger in that—in the fact that you allow a debt to exist, first, and take the security for it afterwards; and, as Mr. Rüthning will point out, there is also an element of danger coming in under some of the clauses of the Insolvency Act.

“You consider, then, there is some danger—some element of danger—in your not having this protection? Yes. There is also the inconvenience of our being restricted in our business. Other banks trading under the Limited Liability Act, or under special charters, are not restricted.”

Then further on Mr. Kerr says:—

“By the Chairman: From a paper I have in my hand it would appear that the Bank of Australasia and the Bank of New South Wales, and the Commercial Banking Company of Sydney, in Brisbane, do not labour under this restriction? They do labour under it; the Commercial Bank of Sydney and the Bank of New South Wales have special Acts in somewhat similar terms to the Joint Stock Bank Act.

“The paper I am looking at says—gives me to understand—that they can advance upon the security of leasehold and freehold for reimbursement only? Yes; for past debts—existing debts; that is, they can take security upon freehold land for existing debts.

“By Mr. Ferguson: They cannot mortgage? They cannot mortgage.

“By the Chairman: And the paper I have in my hand further represents that the Union, the Queensland National, and the Royal—all three banks—are unrestricted? Yes; and the Mercantile and the Commercial of Australia.

“Then you are of opinion that the existence of this restriction has very much interfered with actual business—you are of opinion that it stands in the way of free legal business? Yes.”

Mr Rüthning, the solicitor to the bank, informs the committee, in answer to the chairman:—

“In the course of your experience as solicitor for the bank have you had opportunities of knowing whether the restriction contained in the Australian Joint Stock Bank Act of 1853 operates in any way prejudicially to the bank's business? Certainly.

“In what respect? In preparing securities the restriction of the Act has always to be considered to be an element of danger—the danger of litigation is almost unavoidable; in fact, I consider it is unavoidable. As a matter of practice the bank always in their securities put in a clause permitting further advances; and those further advances may be read to be contrary to the intention of the Act. The Act states, in section 12, which must be read in conjunction with section 3, that the bank may hold—

“‘Until the same can be advantageously disposed of for the purpose of reimbursement only and not for profit, any lands, houses, and other real estate . . . which may be so taken by the said corporation in satisfaction, liquidation, or discharge of any debt due to the corporation, or in security for any debt or liability *bond fide* incurred or come under previously and not in anticipation or expectation of such security,’ &c.

“That is contrary to the further advances, clearly. Again, the Insolvency Act, in sections 107-8-9, prohibits the security on part advances if taken within six months of adjudication. As a matter of fact, I know that the New South Wales Bank has been put to litigation in consequence of this restriction.”

I do not know that I need trouble the House by quoting further from the evidence. I have already referred to the 1st clause. The 2nd clause enacts—

“It shall be lawful for the said corporation to make loans and advances upon freehold and leasehold lands, and to take legal or equitable mortgages to secure the said loans and advances, together with interest thereon, and such bank shall have all the rights and remedies of mortgages in respect thereof, for the purpose of reimbursement only, and not for profit, anything to the contrary in the said Act contained notwithstanding.”

I now formally move that the Bill be read a second time.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I think it is very reasonable that the Australian Joint Stock Bank should have equal privileges with other banks which have been carrying on business under the Companies Act of 1863. It is a very short Bill, and the bank simply requires to have power to make loans in the ordinary way instead of doing it in the roundabout method which they have to follow under their present charter. I have great pleasure in supporting the second reading of the Bill.

Question—That the Bill be now read a second time—put and passed; and the committal of the Bill made an Order of the Day for Wednesday next.

VALUATION BILL.

COMMITTEE.

On the Order of the Day being read, the House resolved itself into a Committee of the Whole to further consider this Bill in detail.

Question—That clause 2, as read, stand part of the Bill—put.

The Hon. F. T. GREGORY said he thought it was possible that the Postmaster-General might be inclined to postpone the consideration of the measure, after the decision given by the Committee yesterday, as they were anxious to see the Divisional Boards Bill before they took any final steps with regard to the measure now before the Committee. No doubt the hon. gentleman, in his position as Postmaster-General, desired to push on the business as fast as possible, but from his (Hon. Mr. Gregory's) knowledge of the feeling of the majority of hon. members, he did not think it would result in any progress being made. He hoped the hon. gentleman would consent to

postpone the further consideration of the measure until next sitting day, on which day, he knew, many hon. members had expressed their desire to go on with it, but they were not prepared to do so until they saw the Divisional Boards Bill. He did not like taking business out of the hands of the hon. gentleman, but it would perhaps simplify matters if he at once moved that the Chairman leave the chair, report no progress, and ask leave to sit again.

The POSTMASTER-GENERAL said he only desired that afternoon, after the expression of opinion which was given yesterday, that they should proceed, if possible, with some of the non-contentious clauses of the Bill. He was aware that there was a feeling among hon. members that the Bill should be postponed until the Divisional Boards Bill came up to that Chamber, and he was quite willing to accede to the desire of the Committee and postpone part of the Bill. He had some hope that the Divisional Boards Bill would be there that afternoon, but if they adjourned at once they would not have that Bill. If they went on with the non-contentious clauses in the Valuation Bill—and there were some of the clauses that were simply formal—they might receive the other Bill from the Assembly before they adjourned. The Bill would be read a first time, and would then be placed in the hands of hon. members. In that case they would gain a week. Hon. members would see at once that it was very desirable, under present circumstances, that a week should be saved, if possible. It was not that he wished to rush the Bill through committee with undue haste that he made that suggestion, but rather because he desired that no time should be lost. He would also point out, as he did yesterday, that clause 7 was, in fact, the whole of the Bill, and the other clauses were not very important, except as matters of detail. If hon. members would discuss the other clauses he would be very glad, and he had not the slightest objection to postpone clause 7 until next sitting day.

The HON. W. H. WALSH said it appeared to him, after listening to the remarks made by the Postmaster-General, that the contention would be on the 7th clause of the Bill. He (Hon. Mr. Walsh) therefore thought that the proposition made by the hon. gentleman was perfectly fair, and that they should proceed with the non-contentious clauses of the measure. If hon. members were at all inclined to do any business in that Chamber there was plenty to do in that Bill, even in those clauses which came within the non-contentious part of the measure. He wanted to warn hon. gentlemen against the road they seemed to be leaning upon, and guard them against it as far as he could. If they wanted to consider that measure side by side with another Bill which was to come from the other Chamber, he would point out that it could not be done. Such a course was most unconstitutional. There could not be two Bills before the Committee at one and the same time, nor could they refer to a Bill that was coming on at a subsequent period; so that the reasons given for postponing the consideration of the measure before them were founded on a fallacy, so far as constitutional practice went. He certainly should object strongly to hon. members comparing the character of the clauses of that Bill with the character of the clauses of another Bill which they only knew was coming up to them from the Legislative Assembly. The reason given for postponing the consideration of that measure was, therefore, not a good one.

The HON. T. L. MURRAY-PRIOR said it was not long since the Hon. Mr. Walsh got up and reprimanded him for stopping the business of the Committee. The simple fact was that the

Postmaster-General made a motion for adjournment, and as it was not in his place to do more than propose the adjournment of the House for a short time, he (Hon. Mr. Murray-Prior) merely moved, without in any way wishing to retard the business of the House, that they should adjourn until an ulterior time. He would not allude to the remarks made by the hon. gentleman a short time before that, because he thought they were uncalled for and in very bad taste. With regard to that Bill, if the Postmaster-General wished them to go on discussing it until another Bill was received from the Legislative Assembly, he thought the hon. gentleman might have managed to have had that other Bill there yesterday and then it would have been read a first time, and they might have gone on with the Valuation Bill. They gave their reasons yesterday why they did not wish to push the Bill through at that time, and he believed the reasons given then had as much weight that afternoon. As to considering the two Bills concurrently, they knew very well that they were quite different and that such a course could not be adopted. Yet they deemed it to be right that hon. members should know somewhat of the Bill that was coming up from the Assembly. He thought that they should take time to go through Bills and that they should not hurry measures through committee merely because they did not dissent from them. He did not see much to dissent from in that Bill, but, at the same time, they should see the other Bill, which must have something to do with the one before the Committee, as the two originally formed one Bill. Under those circumstances he thought it would be better to postpone the further consideration of that measure.

The HON. W. H. WALSH said he did not think the hon. gentleman had quite caught the meaning of his remarks. He (Hon. Mr. Walsh) was very pleased that the hon. gentleman had unburdened himself. They knew that he was burning for an opportunity to do so, and he had done it very nicely and in a gentlemanlike way. So far so good, but the reasons given why they should not proceed with the other parts of the Bill were not sufficient to induce them to comply therewith. A great many changes might take place between this and next week, and it might be necessary to hurry through the business, and he thought that under the circumstances delays were dangerous. They knew very well what were the contents of the Bill; they were discussed last night fully, and they also knew pretty well the contents of the Bill which was being discussed elsewhere. He warned hon. members that the two Bills could not be under discussion together, nor could one be referred to in speaking to the other.

The HON. W. GRAHAM said he thought that the Hon. Mr. Walsh was entirely under a mistake. He was perfectly certain that no member on his side of the Committee laboured under the idea that the two Bills could be discussed concurrently. It was merely a question of personal knowledge of the one Bill influencing them to a certain extent in regard to the other. It was an extraordinary thing for the hon. gentleman to suppose that hon. gentlemen on the Opposition side should imagine that the two Bills could be discussed concurrently. That was out of the question.

The POSTMASTER-GENERAL said he had been informed that the Divisional Boards Bill could not reach them that afternoon, and therefore he had great pleasure in complying with the wish of hon. gentlemen that the discussion be postponed. He moved that the Chairman leave the chair, report no further progress, and ask leave to sit again.

Question put and passed.

The House resumed; the CHAIRMAN reported no further progress, and obtained leave to sit again.

ADJOURNMENT.

On the motion of the POSTMASTER-GENERAL, the House adjourned at twenty-five minutes to 5 o'clock until Wednesday next.
