Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 12 OCTOBER 1887

LEGISLATIVE COUNCIL.

Wednesday, 12 *October*, 1887.

Assent to Bills.—Queensland Fisheries Bill—third reading.—Immigration Act Amendment Bill—third reading. — Divisional Boards Bill—committee. — Adjournment.

The PRESIDENT took the chair at 4 o'clock.

ASSENT TO BILLS.

The PRESIDENT announced the receipt of messages from the Governor, conveying His Excellency's assent on behalf of Her Majesty to the following Bills:—Real Property (Local Registries) Bill, Australian Joint Stock Act Amendment Bill, Bundaberg School of Arts Bill, and Valuation Bill.

QUEENSLAND FISHERIES BILL.

THIRD READING.

On the motion of the POSTMASTER-GENERAL (Hon. W. H. Wilson), this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, with message in the usual form.

IMMIGRATION ACT AMENDMENT 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, with message in the usual form.

DIVISIONAL BOARDS BILL.

COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the President left the chair, and the House went into committee to consider the Legislative Assembly's message relative to the Legislative Council's amendments in this Bill.

The POSTMASTER-GENERAL said the first matter connected with the message was in clause 15, line 30. The Bill, as introduced into the Council, provided that no person should be qualified to be elected unless before noon on the day of nomination all sums due in respect of rates for which he was liable had been paid. The amendment made by the Council was that they should be paid seven clear days before the day of nomination, in order to give an opportunity of finding out whether a person was an eligible candidate or not. He trusted that the Council would see fit to pass the clause as it was originally submitted to them on several grounds. One was that there was a clearness about the rates being received up to the day of nomination, but if they attempted to name any particular number of days within which the rates must be paid, they to a certain extent confused the minds of ratepayers, and in the country districts especially it would be very much easier to manage an election if the law was that rates should be paid up to the hour of nomination. The amendment would probably cause a disqualification of desirable candidates, because those matters were often left till the last moment, and a desirable candidate might spring up almost at the last moment, and the ratepayers would be unable to nominate him if he had not paid his rates previous to seven days before the day of nomination. Another strong argument was that it enabled boards to get in their rates in a way they did not seem able to do otherwise. The amount of rates was generally very small, and it did not pay to

send a collector to get them in. But if the collection of rates were coupled with the election of members, boards would be enabled to get in their rates much easier. Another thing—if it was well known that parties could pay their rates up to the day of nomination, that was easily thought of, and simplicity in such matters was of very great importance. He moved that the Committee do not insist on their amendment in clause 15, line 30.

The HON. F. T. GREGORY said the arguments advanced by the Postmaster-General went in the opposite direction. He said that if rates were received up to the day of nomination it would insure the payment of rates, but the effect would be exactly the contrary. Instead of paying months before, when they were due—sometimes six months before the day of nomination—ratepayers let it go on and never paid them till a few of the ratepayers might want to be nominated or to record their votes. Another very strong argument was that the reason for disagreement given by the other branch of the Legislature, that it was convenient to pay up to the day of nomination, was not a good one, because it was excessively inconvenient, as he knew from practical experience, to receive rates within a few moments of the time of nomination. Another thing—the people in a large majority of the divisions had elected to vote by post instead of by ballot, and there were very few ratepayers present on the occasion of nominating candidates, so that it would bring in very few rates indeed. Again, the nomination paper must be signed by a certain number of ratepayers before it was handed in, and if people wished to be elected they must take the necessary steps in good time. Another point the Postmaster-General had overlooked was that if the Council insisted on their amendments the Bill would be more in accordance with the spirit of other measures which provided that rates must be paid as far back as sixty days before the day of nomination. He thought the amendment allowed ample time, and had it not been for some other conditions connected with the construction of the Bill, he thought the Council would have insisted on rates being paid at least thirty days before the day of nomination. He hoped the Committee would insist on their amendment.

Question—That the Committee do not insist on their amendment in clause 15, line 30—put, and the Committee divided:—

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The Hons. Sir A. H. Palmer, W. Horatio Wilson, W. F. Taylor, J. Swan, F. H. Holberton, and J. S. Turner.

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The Hons. F. T. Gregory, J. F. McDougall, G. King, A. Raff, A. C. Gregory, W. Graham, F. H. Hart, W. D. Box, W. H. Walsh, P. Macpherson, J. C. Smyth, J. D. Macansh, and A. J. Thynne.

Question resolved in the negative.

The POSTMASTER-GENERAL said the next amendment was in clause 28, lines 36 and 37, and it followed on the amendment made in clause 15 to a certain extent. The amendment in clause 28 had to do with the qualification of voters, but the other had to do with the qualification of candidates, and the question was whether the voter must pay his rates seven clear days before the day of nomination or whether he should have the privilege of paying up till noon on the day of nomination. After the division already taken, he presumed the Council would insist on their amendment. However, he moved that the Committee do not insist on their amendment in clause 28, lines 36 and 37.

The HON. A. C. GREGORY said that not only did the amendment in clause 28 hang on the amendment in clause 15, but the arguments adduced with regard to candidates applied more strongly in the case of voters, and he thought the Committee should adhere to the decision they arrived at previously. As an additional reason for insisting on the amendment in clause 28 he might point out that the returning officer ought to be in possession of the voters' list on the day of nomination, so that, on reference to it, he could see who were qualified and who were not, and some time must be allowed previous to the moment of nomination to enable the proper officer to prepare the lists and place them in the hands of the returning officer. He did not think it necessary to detain the Committee with any other reason in favour of insisting on the amendment.

The POSTMASTER-GENERAL said that they would be altering a law which had been in existence since 1879, when the Divisional Boards Act was passed. The 11th section of that Act stated voters should have the privilege of paying their rates before noon of the day of nomination. He mentioned that because the original Act had worked very well in that respect, and it seemed a pity that the arrangements of voters should be upset by an alteration in the law. After the division that had taken place, he did not expect to alter hon. gentlemen's opinions upon the subject; but it was only right that he should point it out.

The HON. A. C. GREGORY said he would point out that they would not be allowing the law to stand exactly as it was, by not insisting upon their amendment, because there were certain additional matters in the Bill which differed from the existing law, in regard to the fact that both owners and occupiers had to be put upon the list. Under clause 32 a copy of the list was to be in the hands of the returning officer; so that they were not simply dealing with the retention of the old law, but had introduced new provisions which affected the question, and made it still more important that there should be time for the preparation of the lists before the day of nomination.

The HON. W. H. WALSH said the matter seemed to be in a very unfortunate position. The Postmaster-General, who was at any rate a discreet adviser on those subjects, said that they were altering the law, which he was not aware of. The Hon. Mr. Gregory said they were not. It was a matter worthy of their serious consideration, and he therefore suggested that they should postpone the further consideration of the measure for a week, so that they might not do anything without sufficient forethought and consideration. He did not for one moment wish to alter the law unless on good grounds, and he would not agree to their insistence upon any amendment which would have that tendency, without mature consideration. Let them take time to deliberate on the subject, and bring it forward again at a future date. He suggested that the Postmaster-General himself should move that they should report progress and further consider the Bill at some later day during the week, or still better, next week.

The HON. SIR A. H. PALMER said he thought if the Committee wished to make itself exceedingly ridiculous, and the Postmaster-General particularly so, they should accept the advice which had just been tendered to them. They had already adjourned for a week to take those amendments into consideration, and really, if there were not brains enough in the Committee to master those amendments within a week, it was his opinion they would not do it within the next seven years. He looked upon the question as to whether a man should pay up his rates seven days before, or on the day of an election, as not worth talking about. It was not worth ten minutes' consideration. It would be a

matter of very little moment when a ratepayer paid, so long as he did pay. There was another light in which he viewed the question, if they stood out against the amendment, and that was that they would imperil the Bill for a session, and throw the whole thing over till next year. It did not require much prophecy to know that political matters were in a very queer state, and they might be all mixed up in one grand conglomeration one of those days. Was it worth while to insist upon their amendment and let the Bill stand over, not for a week, as was proposed by the Hon. Mr. Walsh, but for a whole session? They had better take the amendments of the other House pretty much as they came, and let the Bill go on. It was generally believed to be a good Bill, and they had better have it as it was than none.

The HON. W. H. WALSH said he really could not listen to such an oration. He supposed they were bound to consider everything that came from the President; but he could not submit to listen to that without making his most earnest protest against it. The hon. gentleman did not occupy that position in the Committee that he should dictate to them.

The HON. SIR A. H. PALMER said he was not dictating. He was speaking as a member of the Committee from the floor.

The HON. W. H. WALSH said the hon. gentleman's words were so weighty that they almost amounted to dictating, although he might be ever so wrong, which he (Mr. Walsh) did not suppose was the case. In a matter of that kind, where the Committee was differing from the opinion of the other Chamber, the last person who ought to give an opinion upon the subject, except from the chair, was the hon. President. That hon. gentleman might be called upon to determine what were their rights; but he never could understand him. He never could understand that the President of that Chamber had any business to come down on the floor and dictate to them; for the words of an hon. gentleman in his position amounted to dictatorship. He was not speaking disrespectfully at all, but was explaining his feelings as to the high position the hon. gentleman occupied in the country. When the President came down to the floor of the House he lowered himself to the position of an ordinary member, and was telling them that they ought to accept messages from the other Chamber. The hon. gentleman was wishing to be their guide and governor, and was forgetting himself. He could not help saying so. The President ought to be in the chair to maintain their right that they were endeavouring to enforce, or claim, or insist upon, and he had no business to come down and tell them that they should not insist upon their rights. He would not allow such an extraordinary procedure to occur without entering his earnest protest against it. Probably the matter was trivial, as the hon. gentleman had stated. Possibly it might be beneath their notice, or not worth being insisted upon. But there was a greater matter before them now, and that was that the President of that Chamber, as custodian of their rights and privileges, should not come down and ask them to abandon those rights, or to give in one iota to the other Chamber. Hon. gentlemen should bear that in mind, that whether right or wrong, it was the duty of the President, while he occupied that position, to insist upon their claims and upon their insistencies.

The HON. SIR A. H. PALMER said he differed *in toto* from the Hon. Mr. Walsh, from the last sentence of his speech back to the first. If the House were wrong it was not the duty of the President to insist that they were right, and he, for one, would never do so. So long as he considered they were right, as President, he should take very good care that their rights were safe in his hands; but certainly not if they were wrong. In the next instance, he did not believe that in coming down from the chair to the floor of the House he lowered himself in any possible way. He was a member of the House, with as full a right to speak from the floor of the House as any hon. member, and no better. The Standing Orders defined his position exactly. When the President addressed the House he should speak from the floor of the House, and then he addressed hon. gentlemen as a private member, as he had done, and was doing. As to his dictating to the Committee, he would put it to hon. gentlemen whether he ever did so. He had only given his opinion for what it was worth.

Question—That the Committee do not insist upon their amendment—put and negatived.

On clause 28, line 38, in which the Council had inserted the words "all land within the division for the payment of which he is liable," and which amendment the Assembly disagreed to—

The POSTMASTER-GENERAL moved that the Committee do not insist upon their amendment.

The HON. A. C. GREGORY said the reason given for disagreeing to the amendment was—

"Because it appears unfair that an owner should be entirely disfranchised by the accidental omission of an occupier of part of his property to pay rates."

The argument seemed a good one; but in reality it did not apply to the case, because when they turned to clause 193 they found that an owner was not liable to pay the rates if there was an occupier. At the same time, in order to make it very clear and very distinct that they did not wish to disfranchise an owner, and so far as possible to meet the views of the Assembly, he would propose an amendment. He believed the Council had thoroughly met the wishes of the Assembly in the spirit of the Bill; but there were means of making it clearer. They concurred with them in spirit, although not in words. He proposed, as an amendment upon their amendment, to insert the word "solely" before the word "liable." That would simply emphasise the intention of the Committee, and also that of the Assembly.

The CHAIRMAN said the question was simply whether the Committee insisted or did not insist upon their amendment. An amendment upon the amendment would not be in order.

The HON. A. C. GREGORY said, in reality, it did not matter much whether the word were inserted or not, because in both Chambers the intent was the same. Clause 193 said:—

"Except as herein otherwise provided, every rate which the board is by this Act authorised to levy shall be levied upon every occupier of rateable land within the division, or if there is no occupier of any rateable land, then upon the owner."

That made it perfectly clear that if a tenant did not pay rates the owner would not be disfranchised. Under those conditions the original amendment would carry out the views and wishes of the other Chamber. He should certainly support their insistence upon the amendment.

Question—That the Committee do not insist upon their amendment—put and negatived.

The POSTMASTER-GENERAL said the next amendment was in clause 95, which the Council had amended by substituting the words "person whose name appears on the rate book of the division as the occupier or owner of rateable land therein" for the words "voter for the same division." The Assembly had made an amendment to omit the words "or subdivision," but that was evidently a mistake, as, if hon,

gentlemen looked at the clause, they would see that those words did not occur in it. The words seemed to have come into the message through inadvertence. Therefore he moved that the amendment be agreed to.

Question put and passed.

The POSTMASTER-GENERAL said the next amendment was in clause 207, relating to the seizure of timber for rates. The Council had amended the clause by not giving boards power to remove standing timber, and the Assembly disagreed to the amendment—

"Because the power to levy on standing timber has, in practice, been found of advantage, and may obviate the necessity of leasing the land."

That was a matter that was fully considered in the Council, and a division was taken upon it. He moved that the Council do not insist upon their amendment, almost entirely for the reason stated in the message. If power were given to boards to levy upon standing timber, there would be no necessity for them to go further and do greater harm to the ratepayer, by leasing the land. He did not see that there was any difference between giving boards power to levy upon standing timber and allowing them to levy upon a person's goods and chattels. As a matter of practice he never heard of a board levying upon standing timber. It was possible that they might have done so, but it was a very unfrequent occurrence. He did not think there would be much harm done if they left the clause as it came to them. He must remind hon. gentlemen that they had made a great many amendments in the Bill which the other Chamber had agreed to, and he trusted that any trivial amendments like that would not be insisted upon. It was one of those matters which the Council could very well give way in.

The HON. W. D. BOX said he was very much astonished at the action of the Postmaster-General. If he remembered aright, when the point was discussed before it had his most hearty support. He understood, from what the hon. gentleman said then, that he was quite of opinion that the rates the boards might obtain by operating upon standing timber would not be commensurate with the loss that would ensue to the general public through their being deprived of the benefit derived from indigenous trees. He hoped the Committee would insist upon their amendment. It was not a trivial matter to his mind. The boards might for the sake of a few rates destroy most valuable timber that could never be replaced, without the knowledge of the owner. The clause was different from any legislation they had had before. Timber had not been destroyed except by robbers. If landlords let their lands they did not allow the standing timber in the vicinity of towns to be cut down at the indiscreet wish of the tenant. When the subject was before the Committee previously he tried all he knew to get the clause eliminated altogether; but he was unsuccessful. The fact of there being part of the clause in the Bill would attract the attention of local authorities to timber standing or lying upon the land. He felt strongly upon the matter. Eucalyptus and ornamental trees should be protected. Persons who tried to improve their land by planting trees would be at the mercy of the local authorities if the rates were not paid, and their amendment were not agreed to. Timber that grew upon the land was a benefit to all the people in the locality. The eucalyptus had been imported into Europe, and had had a beneficial effect in reducing malaria, and the Hon. Dr. Taylor could bear him out in that statement. If the clause were passed, and standing timber were allowed to be removed, the loss to the community could never be replaced. He trusted that other gentlemen, more capable than he was, would speak in his support. He proposed that the Committee insist upon their amendment, and give the following reason—

Because the revenue of the local authority is sufficiently protected by the other clauses of the Bill; because cutting standing timber would frequently involve waste in excess of the annual value, and the loss of any of the indigenous trees is greater than the gain to the local authority of the rates that would be recovered by this mode of procedure.

The CHAIRMAN: I take it that the question before the Committee must be first negatived before the amendment can be put.

The HON. W. H. WALSH said he thought the cause of the amendment must be stated.

The CHAIRMAN: The question must be put and negatived first.

The HON. SIR A. H. PALMER said that if the Hon. Mr. Box had moved, as an amendment, that the Committee do insist on their amendment for certain reasons, the amendment must be put first.

The HON. W. D. BOX said that when he rose before it was to express the hope that the Committee would insist on their amendment, and he gave notice that he should request the Committee, at the proper time, to insist upon it for the reasons he had read.

The CHAIRMAN: I still consider I was quite right in saying that the question must be decided in the affirmative or the negative. I have nothing to do with the reasons read by the Hon. Mr. Box. The reasons are stated in the message sent to the other Chamber.

The HON. SIR A. H. PALMER said that, as the Hon. Mr. Box had not moved an amendment, the Chairman was perfectly right.

The HON. A. J. THYNNE said that if the Hon. Mr. Box had moved his amendment it could not have been received, because it would have been a direct negative to the proposition before the Committee.

Question put and negatived.

The POSTMASTER-GENERAL said that clause 246 was a new clause, introduced at his instance, and the Legislative Assembly had agreed to it with the addition of the words "or one-half the actual ordinary revenue of the division for that year, whichever is the greater amount." That would practically make very little difference in the working of the clause, and he moved that the amendment be agreed to.

The HON. A. C. GREGORY said the amendment of the Legislative Assembly would still leave a reasonable restriction on the amount to be borrowed from banks on temporary accommodation, and he thought the limit proposed was a very reasonable one, and one in which the Committee might concur.

Question put and passed.

On the motion of the POSTMASTER-GENERAL, the Assembly's verbal amendment in new clause 247 was agreed to.

The POSTMASTER-GENERAL said the next amendment was in the sixth schedule, and the Assembly disagreed to that amendment; but as the Council insisted on their amendments in clause 207, the amendment in the sixth schedule followed as a corollary. He moved formally, however, that the Committee do not insist on their amendment in the sixth schedule.

The HON. F. T. GREGORY said it would be necessary formally to insist on the amendment in the sixth schedule, to bring the schedule into harmony with the amendments insisted upon before.

Question put and negatived.

The House resumed, and the CHAIRMAN reported that the Committee had come to a resolution.

The report was adopted.

The POSTMASTER-GENERAL moved that the Bill be returned to the Legislative Assembly with the following message :—

Legislative Council Chamber,
Brisbane, 12th October, 1887.

MR. SPEAKER,

The Legislative Council having had under consideration the message of the Legislative Assembly, dated the 4th instant, relative to the amendments made by the Legislative Council in the Divisional Boards Bill, beg now to intimate that they insist on their amendments in clause 15, line 30, and clause 28, lines 36 and 37, because it is necessary to provide for the preparation of a complete voters' list before the day of nomination ; insist on their amendment in clause 28, line 38, because the non-payment of rates by an occupier or tenant does not render the owner liable for such payment ; agree to the amendment on their amendments in clause 95, and to the amendments made by the Legislative Assembly in the new clauses 246 and 247 ; and insist on their amendments in clause 207 and the sixth schedule, because the revenue of the local authority is sufficiently protected by the other clauses of the Bill—because cutting standing timber would frequently involve waste in excess of the annual value, and the loss of any of the indigenous forest trees is greater than the gain to the local authority of the rates that would be recovered by this mode of procedure.

A. H. PALMER,
President.

Question put and passed.

ADJOURNMENT.

The POSTMASTER-GENERAL, in accordance with notice given at an earlier hour, moved —That this House do now adjourn until Wednesday next.

Question put and passed.

The House adjourned at eighteen minutes past 5 o'clock.