Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 4 OCTOBER 1899

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LEGISLATIVE COUNCIL.

WEDNESDAY, 4 OCTOBER, 1899.

The PRESIDENT took the chair at half-past 3 o'clock.

QUESTIONS.

MANAGEMENT OF THE PARLIAMENTARY BUILDINGS.

HON. A. H. BARLOW asked the President—

1. Whether the Parliamentary Buildings as to care, custody, and maintenance are vested in a joint committee of both Houses?

2. Whether to the President's knowledge any Speaker of the Legislative Assembly or other officer thereof has ever set up any claim to exclusive jurisdiction over any part of the said buildings; and, if so, to what part?

The PRESIDENT: The answer to the first question is "Yes," and to the second question "No."

BRISBANE GIRLS' GRAMMAR SCHOOL.

HON. A. H. BARLOW asked the Secretary for Public Instruction—

1. Who are the trustees of the Brisbane Girls' Grammar School?

2. By whom were these trustees severally appointed?

3. Will the honourable Minister be pleased to ascertain and state whether it is a fact that the trustees have offered the post of head-mistress to a lady without advertisement or competition; and, if so, who were the trustees present when such offer was decided on?

4. Whether the Government has taken or intends to take any steps to prevent the appointment of a new head-mistress until Miss Fewings has had an opportunity of appealing to the Minister against the recent action of the trustees in her case?

5. Whether it is his intention to hear any appeal from Miss Fewings if she desires to make one?

6. Whether there is ordinarily any right of appeal to the Minister against any action of trustees of grammar schools?

7. What control has the Government over the proceedings of the trustees of State-aided grammar schools?

The SECRETARY FOR PUBLIC INSTUCTION (Hon. W. H. Wilson) replied—

1 and 2. Appointed by the Governor in Council:—John Lockhart Gibson, M.D., John James Kingsbury, M.A., Edwyn Mitford Lilley, Henry James Oxley. Appointed by the Governor in Council on the mination of the subscribers:—The Honourable Sir Samuel Walker Griffith, G.C.M.G., C.J., M.A., Lewis Adolphus Bernays, C.M.G., F.L.S., John Laskey Woolcock, B.A.

3. The trustees have been invited to supply the information sought.

4. No.

5. No.

6. No.

7. None.

LEAVE OF ABSENCE.

HON. W. F. TAYLOR moved that leave of absence be granted to the Hon. Dr. Marks for one month.

Question put and passed.

PAPER.

The following paper, laid on the table, was ordered to be printed:—

Report from the joint committee of the two Houses on the management of the refreshment rooms for the year 1898-99.

SUPREME COURT BILL.

SECOND READING.

The POSTMASTER-GENERAL: This is a Bill to slightly amend the Supreme Court Acts, 1867 to 1895. As hon. gentlemen are aware, we have a court sitting at Townsville and also at Rockhampton, and it frequently happens that the judges are away from their posts, on occasions when they have to attend the Full Court, when they have obtained leave of absence, and so on. It also happens that small applications, such as applications to make a person insolvent or to get a *ca. re.*, are made, and that a judge has actually to be kept on the spot in order to hear trivial applications of that kind. I remember that when I had charge of the Department of Justice I had to send a judge to Townsville, for two months, at great expense, because the Townsville people were afraid that there would be nobody there to attend to any business, although it was known that there was not likely to be any business except of the trivial character I have mentioned. Accordingly we have brought in this Bill in order to enable the registrar, who is always a legal man, to hear any of those unopposed applications. He has no power, under the Bill, to hear anything of a contentious nature. If a matter before him became contentious he would of course reserve it for the judge. But all applications involving no dispute he would have power, under this Bill, to deal with. I may say that the principle of allowing the registrar to act in this way is well known in England, where the registrar does a great deal of work that falls here upon the judges. There can be no possible objection, I imagine, to his hearing applications of this kind. Accordingly, by the 2nd clause, it is provided that—

> Whenever, by reason of illness or absence, or other inability, the Central judge or the Northern judge, as the case may be, is unable to hear and determine—
>
> (i.) Any unopposed motion or application or any *ex parte* application intended to be made to the court or a judge thereof in any matter depending in the court in its insolvency jurisdiction; or
>
> (ii.) Any application for the issue of a writ of *capias ad respondendum*;
>
> (iii.) Any application under section 17 of the Bills of Sale Act of 1891;
>
> and no other judge is present at Rockhampton or Townsville respectively, the registrar of the Central court or of the Northern court, as the case may be, shall have power to hear and determine such motion or application.

The 3rd clause gives the judges a general power to make regulations under the Bill. The 4th clause repeals a verbal error in the Supreme Court Act of 1895, where the words "Central sheriff" and "Northern sheriff" are used. The officers in question hold other offices, and the terms mentioned are really a misnomer. There is nothing else in the Bill. I think it will prove of a very useful character, and will be a great saving of expense; and I move that it be now read a second time.

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

REGISTRATION OF DEEDS BILL.

SECOND READING.

The POSTMASTER-GENERAL said: This is also a Bill of a departmental character. It has been the practice hitherto when transferring or otherwise dealing with property—under the provisions of the Mercantile Acts of 1867, 1891, and 1896, the Bills of Sale Acts of 1891 and 1896, the Crown Lands Acts, and the Mining Act—to register instruments, as required by these Acts, without registering also under the Registration of Deeds Act of 1843, a very old statute which requires that all deeds should be registered under it. Where provision is made under the statutes I have mentioned for registration under them, some doubt has arisen as to whether these documents should not also be registered under this old Act of 1843. Of course there is not the slightest necessity for doing so. It is a useless expense; and it is now sought to get authority to render it unnecessary to register under this old Act. That is to be seen in the 2nd clause, which states that no instrument of any kind whatsoever, which at the date of the passing of

this Act requires, or may hereafter require, to be registered under the provisions of the Acts I have mentioned, need be registered under the Registration of Deeds Act of 1843, and—

> No such instrument executed before the passing of this Act, and no instrument of any kind whatsoever executed before the passing of this Act under the provisions of any Act now repealed relating to Crown lands, or relating to goldfields, mines, or minerals respectively, shall be deemed to be invalid or shall be in any way prejudicially affected merely by reason of the fact that it has not been registered under the provisions of the Registration of Deeds Acts.

That will render the registration under the important Acts I have referred to less expensive, and it will remove any doubt that might possibly arise as to whether the documents in question should be registered under the old Act of 1843. I beg to move that the Bill be now read a second time.

HON. A. C. GREGORY: I am not quite clear as to what the operation of this Bill will be if it becomes an Act, because, although in all our ordinary proceedings in regard to land the deeds have to be registered under the Real Property Act, there are a number of deeds still in existence which were issued before that Act was passed, and which had to be registered under the Registration of Deeds Act. I simply draw attention to the fact in order that there may be no accidental oversight.

The POSTMASTER-GENERAL: Hear, hear!

HON. A. C. GREGORY: There is a large amount of very valuable property which is held under grants issued before the Real Property Act came into force, and therefore it is not under the operations of that Act, unless it is brought under it by the parties interested; and many of them have not done so.

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

LOCAL WORKS LOANS ACTS AMENDMENT BILL.

SECOND READING.

HON. G. W. GRAY said: The object of this Bill should commend it to the favourable consideration of the members of this Chamber. It simply provides that the interest now being paid by local authorities on loans from the Government shall be reduced from 5 to 4 per cent. This money at the present time does not cost the Government more than 3½ per cent. A Royal Commission which sat on the question of local government recommended that this course should be adopted; and when hon. gentlemen think of the satisfactory manner in which the local authorities are developing the different districts of the colony by means of the loans they have borrowed from the Government, they will agree with me that the Government should not make a profit out of the moneys thus loaned to local bodies. The debts due by the various local authorities in the colony to the Government amount very nearly to £2,000,000 sterling, and the finances of the colony are at present in such a satisfactory state that this is in itself another reason why the rate of interest should be reduced to the local authorities. Even private individuals are now able to borrow money at very low rates, and the Government therefore propose under this Bill to reduce the rate of interest to local authorities from 5 per cent. to 4 per cent. Clause 2 states that the [4 p.m.] reduction in the rate will take effect from 1st July last, so that to that extent the Bill will be retrospective. I have much pleasure in moving that the Bill be now read a second time.

HON. E. J. STEVENS: The Government are very much to be commended for bringing in this measure, which is very much required by the majority of the local governing bodies throughout the colony. Some of them are absolutely compelled to borrow money, while with others it is more or less optional. The divisional board which I have before my mind at the present time is that of Southport. In addition to having to maintain their roads and several bridges, the same as all other local authorities, they have to protect the foreshore against the sea. This must be done, otherwise they will first lose a valuable foreshore, then the roads belonging to the divisional board, and then the properties along the frontage. The reduction in the rate of interest will be a very great boon not only to them, but to the other local authorities throughout the colony. I should be very glad if the Government would follow this up by further legislation increasing the amount of endowment to the boards. It may not be necessary in some divisions, but others are quite unable to cope with the action of the weather on the roads. The land in many cases is of no great value for miles; but the roads have to be maintained in good order, and the revenue derived from rates is very small indeed. An increase in the endowment would be a very useful adjunct to this measure, and I hope the Government will take it into their consideration.

HON. J. McMASTER: While the Government are amending the Local Works Loans Acts, I would very much like to see them define what is a "main road." In some divisions there is a very large amount of through traffic with which these divisional boards have nothing to do. For many years the Government have declined to define what constitutes a main road. I have one or two main roads in my mind's eye, and it is a very great hardship to the divisional boards which have to maintain these roads at their expense while the traffic comes from long distances outside their districts. I am well aware that it is said that these divisional boards are benefited by that traffic; but many of them are not. It is merely traffic which passes through. I can mention the Booroodabin Divisional Board and the Hamilton board. The Breakfast Creek road is to all intents and purposes a main road, but those boards have to maintain that very expensive road for the purpose of carrying the traffic—very valuable traffic, I admit—of the city of Brisbane and surrounding districts. In justice to those bodies, the Government should define a main road, and they should assist in maintaining these main roads. It is all very well for the Government to say, "We will lend you money at a low rate"; but it takes a large sum of money to keep these roads in thorough repair. In fact, they are not kept in thorough repair, but in a very bad state of repair, and it takes nearly the whole revenue of some of these boards to attend to them, to the detriment of the byroads and streets. The Government ought to take this matter into consideration.

HON. G. W. GRAY: With the permission of the Council, I would like to answer the Hon. Mr. McMaster. The road referred to by the hon. gentleman I know very well. Its state of repair was simply due to the fact that the local authorities concerned were waiting for the tramway company.

Hon. J. McMASTER: Not always.

HON. G. W. GRAY: This particular question came before me when I was Acting Treasurer, and the hon. gentleman who has just spoken was one of the deputation which waited upon me. The powers given to the Treasurer were exercised in order to give the Booroodabin board the consideration for which they asked—extended time for repayment, and that they were not to be asked to expend the money until

the trams came along. The Hon. Mr. Morehead can bear me out that no main thoroughfare in Brisbane was in such a state of disrepair for years as that road, and I should say it was simply owing to their waiting for the tramway company to lay down their rails. Those rails have been laid down, and with the assistance given by the Treasurer in giving them the money on exceedingly liberal terms, with extended time for repayment, and the fact that considerably more than one-third of the road has to be maintained by the tramway company, the work of keeping this road in repair is now a very small matter compared with what it would have been if the Booroodabin board had to undertake the maintenance of the whole road. The board has now only the small portion of the road on either side of the tram rails to keep in repair. Every consideration has been shown the Booroodabin board, and the hon. member can bear me out that the Government gave them exactly what they wanted, and the fault of the delay is entirely theirs.

HON. A. C. GREGORY: Although it hardly comes within the scope of this Bill, still I think we may fairly consider the question that has been raised by the Hon. Mr. McMaster, and the reply to it that has been made. The reply of the Hon. Mr. Gray only touches upon one particular case where there happens to be a tramway. But the question is a very broad one, applying to the whole colony. There is hardly a single local authority that is not interested in the matter. The only remedy I have ever known that was effectual was that which was recommended and carried out by Sir Horace Tozer when he was in the Ministry—that of putting on a toll. By that system those who use the roads have to pay for them, instead of the local authority having to maintain them for the benefit of others. Although that was afterwards cancelled by the Minister in consequence of the representations of deputations that waited upon him, still that does not touch the question, and when the principal Bill comes before us, that is a point we shall have very carefully to consider. It appears to me that after a road has been made at the expense of the local authority those coming from a distance, who use it, ought to pay something towards its maintenance, and that, in the case of a tramway, the company ought to pay a toll to the local authority to recoup them for the expense they have been put to in preparing the road on which to lay down their rails. They should be just as liable to pay the toll as anybody else. A toll has proved to be one of the most equitable arrangements that could be made, and certainly the best. In England, but for the system of tolls there would have been next to no roads in the country. In fact, before the opening of railways—a period which I recollect perfectly well—the only good roads in the country districts in England were those that were maintained by tolls. The whole subject should be very carefully considered, although an amendment to the effect cannot be moved in a Bill of this kind, which only indirectly applies to it. We shall have to consider it when the other Bill which has been promised by the Government for the last three or four sessions, is before us. There is another matter I should like to draw attention to. The tramcars are in the habit of running at considerably beyond the statutory speed. Hon. gentlemen are perhaps not aware that there is an Act of Parliament which limits the speed on a tramway to ten miles an hour. That is often greatly exceeded on almost all the lines. Some day or other that provision of the law may be discovered; I know where to find it.

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

ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM BILL.

SECOND READING.

The POSTMASTER-GENERAL: It was only as recently as 1897 that we passed the principal Act mentioned in this Bill. That Act was passed for the purpose of better protecting aboriginals and half-castes, and for restricting the sale and distribution to them of opium. Protectors of aboriginals were appointed to administer the Act. It was mentioned on its introduction in this Council that it would probably be necessary that some amendments would have to be made as the Act was administered; and the recent visit that the Home Secretary, Mr. Foxton, made to the North has shown him that certain amendments to the principal Act are necessary. I need hardly say that that hon. gentleman has taken a very great interest in the question, and has endeavoured in every possible way to see how the condition and comfort of the aboriginals could be improved; and he has drafted this Bill, which I think will commend itself to every hon. member as one which will alleviate their condition and give them very much greater protection than anything that has been done hitherto. The Bill is introduced for the purpose of amending certain defects that have been discovered in the law. It enlarges the powers which were given to the protectors by the principal Act, section 13 of which provided that permits granted by them for the employment of aboriginals and half-castes should remain in force for twelve months. That has been found to work badly, because twelve months is considered in many cases too long, and it is thought the protectors should have a discretion to grant permits for any shorter time, probably six months or three months, as the case may be. That will be an improvement, I think, on the provision in the principal Act. Consequently by clause 3 a protector has power to allow a permit to be granted for less than twelve months in his discretion. Clause 4 enables a protector to require a recognisance from the employer to ensure the return of aboriginals to their own territory. That is another thing that has been considered very necessary, because if an aboriginal is landed in a district inhabited by another tribe his life is made very bitter for him, and very frequently he loses it. Clause 6 provides that no marriage of a female aboriginal with any person other than an aboriginal shall be celebrated without the permission, in writing, of the protector. That is also a very necessary alteration in the law, as hon. gentlemen can easily see. Subsection 3 of clause 7 provides that female aboriginals or half-castes and males who have not arrived at puberty are not to be employed or allowed on ships or boats. That is another matter which Mr. Foxton took into consideration, and decided that it was necessary that there should be some restriction placed upon boys and girls being taken on board ships, and in my opinion it is a very wise provision. Another subsection of the clause ensures the due payment of wages in the event of death or desertion. Clause 9 fixes a minimum wage. It is perhaps unique in the history of legislation in this colony that we should have to commence with fixing a minimum wage with aboriginals, but that appears to me to be the most judicious way of meeting their case. They are very liable to be imposed upon, and it is well known that they have frequently been imposed upon in the matter of payment of wages. The same clause provides also that the protector may direct employers to pay the wages of aboriginals to himself or some officer of police named by him, such wages to be expended solely on behalf of the person to whom they are due;

an account of the expenditure has also to be kept. The Bill also removes an inconsistency between the principal Act and the Native Labourers Protection Act of 1884, under which it was not necessary to obtain a permit for the employment of aboriginals. Subsection 2 of clause 7 provides that in all cases and under both Acts such permit has to be obtained. I do not think there is anything more in the Bill that I need explain. All its clauses have the same object in view—namely, to ameliorate the condition of the aboriginals, to enable them to earn wages, and to live their lives in greater comfort; and I think that this amending Bill, which is entirely the result of the information Mr. Foxton has obtained, will not only place those men on a better footing, but will not produce harm to any other section of the community. I move that the Bill be now read a second time.

HON. W. FORREST: On looking over the Bill this morning it struck me that there were one or two things in it that I did not understand. Without going into the Bill from the beginning, I will ask the Minister what is the meaning of subsection 3 of clause 7, which provides that—

> No person shall employ on board of or in connection with, or suffer or permit to be upon, any ship, vessel, or boat, any male aboriginal who has not arrived at puberty, or any female aboriginal or female half-caste.

Does it mean that they may not go on board a ship even as passengers? It is an extraordinary sort of clause. The reason I draw attention to it is that one instance came under my notice the other day, when a lady came on board a ship I was travelling on, and she had with her a very respectable looking gin, perfectly dressed, whom she was sending away, at considerable expense, for a change, as a passenger. Is a woman of that kind not to be allowed to go away for a change?

The POSTMASTER-GENERAL: She can get a permit from the protector.

HON. W. FORREST: But this subsection provides that she shall not be allowed on board any ship. The clause wants amending, and I draw the Postmaster-General's attention to it. It appears to me to have been an oversight, and I hope he will look into it before Tuesday. I would also direct attention to the last subsection of all; and I should like to know how you are going to convey to a blackfellow that his wages have been paid to the protector or to a police officer. I never found out how to do it, and it will give rise to no end of trouble. The protector or the police officer may be fifty miles away. Would he have to travel that distance to collect the money? It strikes me as most unreasonable. You have to treat blackfellows like children, and if their wages are to be handed over to somebody else nobody will be able to make them understand it. I am speaking in the interest of the blackfellow himself—not of the white employer. I think it is a very good thing for those men to get employment, and I know places where they are very well looked after and where they get very good wages. One case came under my notice where a blackfellow fell ill and was tenderly nursed by his employer, who, when the illness was at its worst, sat up a whole night with him. Men who treat their blackfellows in that manner should not be unduly interfered with by the Government. If you insist that the blackfellow's wages shall be paid to a protector, you will never get him to understand that he has been paid at all.

HON. W. D. BOX: I would point out to the Hon. Mr. Forrest that the word in the clause is not "must" but "may." The words are "A protector may direct" the wages to be paid to himself or some officer of police named by him. In an instance such as that mentioned by the hon. gentleman the protector, who ought to know something of the employers, would not presume to direct that the man's wages should be paid to a police officer.

HON. W. FORREST: It gives him the power all the same.

HON. W. D. BOX: It gives him the power to direct, if he chooses, the employer [4·30 p.m.] to pay the wages due to the blackfellow to the officer of State whom the protector approves of. The clause says he "may" do that if he is not satisfied that the aboriginal is being fairly treated. I quite agree with the Hon. Mr. Forrest that it will be very difficult to satisfy a blackfellow that his wages are paid. Still I think that the clause is carefully worded, seeing that the word used is "may, and not "shall."

HON. J. McMASTER: I would like to draw the Minister's attention to subsection 5 of clause 7. If a blackfellow deserts his employment, his employer is to be compelled to pay him. I quite approve of the principle that if a man dies his wages should be paid to his friends, or if he is sick, that he should be paid for the time he is ill; but it is rather strange that his employer should be compelled to pay his wages if he deserts.

HON. B. D. MOREHEAD: He is paid for the time he works.

HON. J. McMASTER: But if the employer pays the money in to the shipping-master, whom is he to hand it over to? He may not know where to find the blackfellow. Do the Government intend to encourage these men to desert? A man might desert his employer, and put him to very great inconvenience, as he may not be able at the particular time to replace him. The employer is to be compelled to pay the man's wages to the shipping-master, although he may have run away no one knows where, and the money will be lying idle. A man who deserts does not deserve to be paid.

Hon. B. D. MOREHEAD: It depends on the circumstances under which he deserts.

HON. J. McMASTER: If he is able to prove that he has been badly treated by his employer, he has his remedy without deserting. I do not think that when a man deserts, and says nothing about it, his employer should be made to pay him.

HON. E. J. STEVENS: There is no doubt that the clause is framed largely in the interests of the blacks, and from one point of view perhaps it is fair that it should be so. We are all aware there are very unscrupulous employers, and a blackfellow might receive rough usage or rough language from one of these men which would induce him to bolt.

Hon. J. McMASTER: Then the employer should be punished.

Hon. E. J. STEVENS: The difficulty is to prove it. Whose word is to be taken? No court would take the word of a blackfellow unsupported against the word of a white man. Many cases of hardship might arise, and it is to meet such cases that the clause is framed.

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

The Council adjourned at twenty-five minutes to 5 o'clock.