Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 16 NOVEMBER 1910

LEGISLATIVE COUNCIL.

WEDNESDAY, 16 NOVEMBER, 1910.

The PRESIDENT (Hon. Sir Arthur Morgan) took the chair at half past 3 o'clock.

LOCAL AUTHORITIES ACT AMENDMENT BILL.

SECOND READING.

The ATTORNEY-GENERAL (Hon. T. O'Sullivan) said: This is a Bill to amend the Local Authorities Act of 1902. A similar measure has been promised for some years, and in two or three late sessions of Parliament it has actually been introduced; but, owing to circumstances which we need not consider to-day, the Government of the day were not successful in transferring the measure to the statute-book. The Bill is entirely a Committee Bill, and there is no need to discuss any principle on the second reading, as the principle of local government is firmly established as part of the settled law of Queensland. Legislation of this kind requires to be kept up to date by fairly frequent amendments, because the Act is a very comprehensive measure, affecting the ordinary citizen in the everyday details of life, and is more important almost than any other legislation that we have. Very great care has been exercised in the preparation of the Bill. The amendments are largely founded on recommendations made by the Local Authorities' Conferences. Some of the proposed amendments are also the result of experience in the working of the Act, being based on departmental suggestions. I think the best way to explain the measure to the Council is to run over the more important

Hon. T. O'Sullivan.]

clauses. The first clause to which I wish to refer is clause 3. The effect of that clause is to alter the number of councillors from nine to twelve, thus assimilating the number of councilors in towns and shires. It has been thought advisable to do this, as the different parts of an area—which sometimes may be of very large extent—will have a better chance of being represented by a man understanding the local wants of every part of the area. Clause 6 imports a very useful power into the Act. It gives the Governor in Council power to dissolve a local authority. Of course, this is a power which will probably be very seldom exercised, but it is none the less a very necessary power to have.

Hon. E. J. STEVENS: Hear, hear!

The ATTORNEY-GENERAL: In some cases it has been found impossible to get a change of councillors, no matter how much the ratepayers may desire it, because only one-third of the councillors retire annually, and no effectual change can be made without a considerable lapse of time, and it is thought desirable that the Governor in Council should have this power, to be exercised in case of emergency. Clauses 7 to 11 are introduced at the suggestion of the Local Authorities' Conference. They assimilate the time for holding elections in towns and shires. At the present time there are differences in the dates of holding these elections, which serve no useful purpose, and which cause confusion. Clause 7 introduces a new subsection into the principal Act—5A—which interferes with the existing voting power of corporations. At the present time a corporation may register three directors as ratepayers in respect of a particular piece of land, and, if the value is high enough, each of those directors may record three votes, thus giving the corporation nine votes for a piece of land which, if held by a single individual, would only entitle that individual to three votes. Clauses 14 and 15 may be taken together. They deal with the question of furnishing statistical information to the Minister. A request was recently made to local authorities by the Home Secretary for certain information for statistical purposes. Some of the local authorities, thinking that the request emanated from the Federal Government, objected to give the information, and it was then found that there was no power in the Act to compel them to give that information. It is thought desirable that there should be such a power, and that, if the Minister who is charged with the administration of the Act requires information for statistical or other purposes, he should be entitled to get it. Clause 20 deals with reserves. The present power of the Governor in Council, in placing a reserve under the control of a local authority, is to "authorise the local authority to assume the management and control of" the reserve. It is intended to alter those words so that the Governor in Council can "place under the management and control of a local authority" the reserve in question. The effect is to change the permissive provision into a mandatory one. On a reserve being placed under the control of a local authority, power exists to order the destruction of noxious weeds on the reserve, and it is important to note that for the purposes of this section "a reserve includes any miners' common or any land which, under Part XI. of the Mining Act of 1898, may be proclaimed as a miners' common." Local authorities will have power to charge agistment fees on such reserves.

Hon. E. J. STEVENS: Can they let the reserves?

The ATTORNEY-GENERAL: Yes, for agistment. Clause 22 deals with the alignment of roads. Experience has shown the present provisions to be defective. The alteration which is made by the Bill, as it comes to us, is not quite sufficient, so, when the Bill reaches the Committee stage, I shall have to propose an amendment in the clause. Under the clause it will not be lawful to erect any building until a certificate of alignment has been first obtained.

Hon. G. W. GRAY: But is that not the law at present?

The ATTORNEY-GENERAL: I understand not.

Hon. G. W. GRAY: I am building, and I had to get the alignment from the council.

The ATTORNEY-GENERAL: It is a prudent thing to get a certificate if you can; but the change we propose to make in the law will make it unlawful to erect a building until you get the alignment.

Hon. A. J. CARTER: It may prohibit the erection of buildings all over the place, if that is so.

The ATTORNEY-GENERAL: That is a point to be considered in Committee, but I do not think it can be carried to the extent of preventing the erection of buildings. If there is any fractious withholding of a certificate, no doubt the property-owner will have a remedy.

Hon. G. W. GRAY: Well, I am putting up a building now, and the architect had to get the alignment confirmed.

The ATTORNEY-GENERAL: At present, if a certificate of alignment cannot be obtained, the property-owner can build, but the object of this clause is to make it necessary to get the certificate of alignment before the building is started.

Hon. G. W. GRAY: It will delay building.

The ATTORNEY-GENERAL: There is a provision in the principal Act for getting a certificate as to the alignment—I forget exactly under what conditions it is given—but it has not been found satisfactory in actual working.

Hon. G. W. GRAY: It will be necessary to fix a time limit, because surveyors differ. If you get three surveyors, they will all disagree in regard to the alignment.

The ATTORNEY-GENERAL: We will try to rectify all that as far as possible in Committee. Clause 23 is an amendment of a section in the principal Act, which deals with the plans of new roads and the subdivision of land. Hon. members will notice that it incorporates a new section, 76A, in the principal Act. The clause as it stands in the Bill is too wide. It casts the obligation on the surveyor who makes the survey, even if it has not to go through the Real Property Office, of depositing a copy of the plan with the local authority; and I intend in Committee to propose an amendment so that the clause will only apply to surveys made for the purpose of land being dealt with through the Real Property Office. Clause 24 deals with the closing of roads; and clause 25 deals with the subject of pounds. Some difficulties have been found in the way of local authorities dealing with pounds. One of the difficulties is that a local authority must use

the pound within its own area; so that, even if there was a pound just over the boundary between two local areas, a local authority would have to go to its own pound, though it might be situated a long distance from where the trespass occurred. This clause is based on a suggestion made by the Local Authorities' Conference. Clause 26 may be regarded as a new departure. It enables the local authority to subsidise omnibus services. (Hear, hear!) It can hardly be called a daring innovation, because the extent to which it enables subsidies to be granted is only £200 in any financial year; but, if the experiment turns out to be a success, no doubt the application of the principle will be extended. Clause 28 enables a local authority to enter into an agreement with the Commonwealth Postal Department as to telephones. That clause has been put into the Bill because, in a recent case where a local authority proposed to enter into an arrangement for a telephone for the use of ratepayers, the Commonwealth declined to make the arrangement because there was no legal power for the local authority to enter into it. Clause 29 may be regarded as a rather important clause, because it provides for the incorporation of the Local Authorities' Association. I need hardly say that the Local Authorities' Conference recommended the insertion of this provision. Amongst other advantages, it will enable the association to establish an officers' fidelity guarantee fund. Clause 30 deals with noxious weeds. The first part of the clause deals with noxious weeds on private land. It enables the local authority to request the owner to destroy the weeds on his own land and keep it free from weeds for a year; and it provides that, if he fails to do so, the local authority may do it at his expense. This clause also imports into the Act a new provision, 156A, which provides that, where a person is the occupier of land abutting on a non-tidal watercourse, it is his duty to extirpate the noxious weeds on the bank and in the bed of the watercourse to the centre of the watercourse to an extent of 2 chains. If the centre is more than 2 chains away from the bank, the obligation devolves on the local authority.

Hon. E. J. STEVENS: The whole distance from the bank to the centre?

The ATTORNEY-GENERAL: With respect to the 2 chains from the bank to the centre, the obligation devolves on the private owner; but, if the centre is further away than 2 chains, the obligation with respect to the distance beyond the 2 chains to the centre devolves on the local authority. Subclause 2 of the clause deals with prickly pear. Hon. members will notice that this clause deals with an area entirely free from pear, or only slightly infested—that is, to such an extent that it may be entirely freed. In such cases the Governor in Council may make a declaration accordingly, and if he does so certain consequences ensue. The local authority must eradicate the prickly pear upon its roads and reserves, and the occupier and owner of private lands must eradicate the pear on the private lands. If, after the expiration of the term allowed, any pear is found to exist on the roads or reserves, the local authority is liable to a penalty; and if any is found existing on private lands the private owner is liable to a penalty. It is very necessary to have provisions of an almost drastic nature dealing with this very great pest. The clause also provides that after the eradication of the prickly pear the duty remains both on the local authority and on the occupier and owner of private land to keep the roads and reserves in the one case, and the private lands in the other case, clear of pear for a year. In clause 33 we come to the very important subject of financial separation. Hon. members will no doubt remember that the section in the principal Act was the subject of litigation recently. It came before the Supreme Court, the High Court, and the Privy Council; and each of those three able courts put a different construction on the section; each court thought the section meant something different from what the other courts thought; and the Privy Council made certain suggestions, to the effect that a clause dealing with an important question like financial separation should be free from obscurity; and it is in pursuance of that suggestion that this clause is inserted in the Bill. The first part of the clause specifies with particularity what moneys are to be paid into separate banking accounts. Separate accounts are to be kept of what may be called the business undertakings of the local authority, such as the supply of gas, electricity, or hydraulic power, and the revenue from waterworks, tramways, and such things. That is the first requirement of the clause. Then subclause (3) is drawn with the object of ensuring absolute financial separation. I think hon. members will agree with me that it is a corollary of the ward system that there must be financial separation. If we are to have wards, then the accounts of the wards should be kept separate, up to a certain extent at any rate. It is provided in the first place that general rates in respect of any division shall be credited to the division in which they are levied, also that ordinary revenue shall be credited to the account of each division in such proportions as the local authority shall direct. Then it goes on to deal with the expenditure. Moneys expended on a work within the limits of a division are debited to the account of that division; expenditure in respect of salaries and general management is charged against the account in each division in proportion to the value of rateable land in that division. Expenditure of unequal benefit is charged against each division in such proportions as the local authority shall, by resolution, direct. And so it goes on right through—there are a number of provisions dealing with the question of financial separation on what seems to me to be an absolutely fair basis. Clause 34 deals with the question of prickly-pear selections. The basis of assessment for rates is on the rental of a selection; but some prickly-pear selections do not pay rent, or pay such a small rent that that basis of assessment is not a fair one. This clause provides that, where the freehold of the land may be acquired, the land shall not be valued at a less sum than 10s. per acre. Clause 35 deals with gas mains. The rate levied at present is only on the mile basis, each fraction of a mile being counted as a mile. The intention of the amendment is to charge on the actual length; so that 1¼ mile will be charged on 1½ mile instead of being charged on 2 miles. Clause 36 deals with notices of valuations to be given by advertisement in certain instances. Clause 37 is one of the most important clauses in the Bill, because it enables a general rate to be levied to the extent of 6d. in the £1, whereas hitherto it has not exceeded 3d. in the £1. Clause 40 deals with the powers of the Treasurer to recover arrears of loans, the power contained in the present Act being very defective. I remember giving an opinion on the section two or three years ago, and pointing out that great difficulties would be found in case the Treasurer was ever put in the position of having to enforce the payment of arrears of loans. This is an attempt to

remedy those defects. It enables a special loan rate to be levied for the purpose of providing the annual instalments in respect of loans; and, with regard to arrears, the Governor in Council may levy a special loan rate, and the Treasurer may appoint a receiver to collect on his behalf moneys due to the local authorities. Clause 41 will probably come as a surprise to hon. members. It [4 p.m.] came as a surprise to me, because it provides for rates on land being and remaining a charge on the land. I must confess that I thought rates were a charge on the land. This is a defect in the principal Act which certainly requires amendment. I would also draw attention to clause 45. There are certain provisions in the principal Act enabling a local authority to sell land for arrears of rates. Those provisions have been found to be unworkable and defective, and they have landed local authorities which tried to exercise those powers in costly litigation. The clause is an attempt to simplify and make workable the power which was conferred by the principal Act. Clause 46 improves the audit provisions, and has received the approval of the Auditor-General and of the Home Secretary's Department. Subclause (2) provides that a person holding a certificate granted by the Department of Public Instruction in connection with technical education shall be entitled to a certificate of competency from the Local Auditors' Board. That widens the choice of auditors, and it recognises the certificate issued by the Central Technical College. Clauses 48 and 50 refer to the amount that can be borrowed by way of temporary overdraft. There is a limit to the borrowing power of a local authority—it must not exceed five times the ordinary annual revenue of the local authority. Section 218 of the principal Act deals with certain sanitary charges that may be made by local authorities. Under certain circumstances, when a contract is let, local authorities have been in the habit of charging the rates received in respect of the performance of such services as part of the general rates. It is intended not to allow money received for work done under section 218 to be treated as part of the general revenue so as to extend the borrowing power of a local authority by way of temporary overdraft. Clause 49 deals with local authorities borrowing, and provides that, before the publication of the notice of intention to borrow, the question of the benefited area has to be decided by the Minister. A poll has then to be taken, and all the persons voting in that poll will have full knowledge of whether there is a benefited area, and, if so, what that benefited area is. This cures a defect in the principal Act in regard to borrowing money.

Hon. E. J. STEVENS: I suppose it will not be retrospective?

The ATTORNEY-GENERAL: I do not think so. I do not think there are any other amendments of special importance to which I need draw the attention of hon. members at this stage. I feel certain that I shall get all the assistance hon. members can give me to place this very important measure on the statute-book, and I now beg to move that the Bill be read a second time.

HON. G. W. GRAY: As the hon. gentleman states, this is really a measure which should be dealt with in Committee. I would ask him how long he intends to delay the Committee stage?

The ATTORNEY-GENERAL: We can bring on the Committee stage to-morrow, but we do not need to finish it.

HON. G. W. GRAY: You cannot do that. Leave it over till Tuesday.

Hon. P. MACPHERSON: There may be amendments to move.

HON. G. W. GRAY: There are sure to be a lot of amendments.

The ATTORNEY-GENERAL: Then I will make it an Order of the Day for Tuesday.

* HON. M. JENSEN: I would like to refer briefly to one or two points. The first question I wish to refer to is that of financial separation. The Attorney-General has not given any reasons in support of the proposal in the Bill, but, of course, as he mentioned, that can be better dealt with in Committee. The hon. gentleman said that the Privy Council has stated that legislation should make the present obscure sections clearer, but the Privy Council did not say whether there should or should not be financial separation. On that point I have an open mind, but at present it seems to me that it would be a mistake. The opinions of members of the Local Authorities' Conference are entitled to some weight, as they are men who have had practical experience. I understand they are against financial separation—at any rate, against financial separation for cities. I have here the report of the proceedings of the conference of 1908, from which it appears that the then Home Secretary submitted a clause dealing with financial separation. A member of the conference, Councillor G. K. Seabrook, of the Stephens Shire, proposed another clause. Both were discussed, with the result that the amendment was defeated by an overwhelming majority. On the original proposition of the Home Secretary being put, it was defeated by practically a unanimous vote. The reasons for the vote are not given in the report, but there was practical unanimity on the question.

The ATTORNEY-GENERAL: What about the 1910 conference?

HON. M. JENSEN: The matter does not appear to have been dealt with at the conference held this year. The secretary to the conference said that the two particular directions in which the Bill would be amended would be that the free issue of summonses and service would be repealed, and that the clause referring to financial separation would not apply to cities; and probably that assurance on the part of the secretary was the cause of there being no discussion on the question. At any rate, when the matter was discussed, it was practically condemned. It seems to me that financial separation would have the effect of blocking to a very great extent the establishment of a greater Brisbane. I take it that most hon. members are in favour of a greater Brisbane, with its greater efficiency and economy. But, if financial separation is established, we shall have the ratepayers in the East and West wards, for instance, objecting to a greater Brisbane because it will affect them. I can understand the application of the principle of financial separation to a case like the Bulloo Shire, which I see has an area of 45,124 square miles. Brisbane only has an area of 5½ square miles, and therefore the community of interests here is far greater than in any of the country local authorities. The clause should not be completely rejected, but should be made to apply only to cities. I submit to hon. members that every improvement in wards other than the East or the West Ward of this city tends to bring business into Queen

street. (Hear, hear!) Every increased facility for communication—making the roads better on the other side of the river, for instance, and all round the suburbs—must have the effect of making more people flock into Queen street to do business there; so that the interests of all the ratepayers are, to a considerable extent, identical. If financial separation is established, a deduction from the figures which have been supplied to hon. members by the secretary of the Ratepayers' Association is that there must be very heavy rates imposed in the other wards, with a reduction in the rating in the East and West Wards. Supposing Charters Towers put forward a claim that, because a large revenue is obtained from the payment by mining companies there of the dividend duty of 5 per cent., they are entitled to have all that revenue expended in Charters Towers, such a claim would at once be rejected by hon. members. There is only one other matter I wish to refer to, and that is that one of the excellent points in this Bill is that which empowers the local authorities to maintain institutions for the supply of pure milk. While the supply is provided by private enterprise, the present adulteration is certain to continue. Hon. members may have noticed that the Commissioner for Public Health stated that the people of Brisbane are paying £2,500 a year for water in their milk supply. Under the power conferred in this Bill the local authorities will save that money, and they will, in addition, probably save the lives of a few infants.

HONOURABLE MEMBERS: Hear, hear!

HON. C. F. NIELSON: There are no new principles involved in the Bill. The Local Authorities Act of 1902 is a most comprehensive measure, but, like everything else, it does not meet every contingency that arises in a country where the conditions are changing rapidly. Certain matters which are not provided for in the Act of 1902 are being provided for in this Bill. One of the main features of the Bill is the provision for financial separation. I would just say, in passing, that under the principal Act the Governor in Council has the power to alter the boundaries of local authorities from time to time. A great deal could be done to stop all this ill-feeling with regard to financial separation if the boundaries of local authorities were altered periodically to preserve community of interests. I am not now speaking with regard to the city of Brisbane. In many cases there is a township at one end of the shire—a trading centre which has absolutely nothing to do with the balance of the shire. There are numerous instances where, if such centres could be cut off from the surrounding agricultural or pastoral country, it would be mutually advantageous, and financial separation might thereby be avoided. To give an illustration: Bundaberg is not a very large municipality, and there are three suburbs which are fairly populous, each belonging to a different local authority. If the Governor in Council were to alter the boundaries and include those suburbs—which are purely residential—within the municipality of Bundaberg, there would be no need for financial separation in those three shire councils. There is a lot of difficulty and differences that would be avoided. There may be a new principle discussed in connection with this Bill, with regard to which I have given notice of an amendment. The amendment of which I have given notice enables any owner of land, who desires in a straightforward way to get rid of his land, to pay up all his dues in respect of such land to the local authority, hand to them the title of the land, together with a transfer to enable them to become registered as proprietors, and thereupon divest himself of the land. That is a new principle as far as the Local Authorities Act is concerned, and as far as the ownership of land is concerned. Fortunately or unfortunately, if a person is the owner of land, and it turns out that he does not want it any longer, there is no law to enable him to get rid of it in an honest manner, and he has to resort to all sorts of subterfuges to get rid of it. The amendment I intend to propose will get over that difficulty. I recognise that this is essentially a Committee Bill, and I consider it will greatly improve the principal Act.

HON. A. J. CARTER: I beg to move the adjournment of the debate.

Question put and passed.

The resumption of the debate was made an Order of the Day for to-morrow.

ROCKHAMPTON HARBOUR BOARD ACTS AMENDMENT BILL.

SECOND READING.

HON. A. H. BARLOW: I suggested the adjournment of the debate on the Local Authorities Act Amendment Bill because I want to ask the Council to meet to-morrow to receive the Land Bill, which is the great Bill of the session, and which it is desirable to have on the business-paper as soon as possible. If hon. members will allow me to go into Committee with the three little Bills that are on the paper to-day, I should like to get rid of them, because the various corporate bodies concerned want to get their financial arrangements under way. The first of these little Bills is the Rockhampton Harbour Board Bill. It provides for a £50,000 increase in the borrowing powers of the board. Up to the year 1906 the borrowing power was limited to £150,000, and in 1906 it was increased to £250,000. What has taken place is that the Middle Channel in the Fitzroy River has been abandoned and the South Channel taken on. The sum of £50,000 is wanted for the new scheme, which includes an extension of the wharves by 300 feet and the completion of works at Satellite Island Passage. The revenue of the board in 1909 was £25,736, and the interest and redemption charges amounted to £14,402. I presume the Rockhampton people know what they are about, and that this money will be profitably laid out. I beg to move that the Bill be now read a second time.

Question put and passed.

COMMITTEE.

Clauses 1 and 2 put and passed.

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

CITY OF SOUTH BRISBANE LOAN ACTS AMENDMENT BILL.

SECOND READING.

HON. A. H. BARLOW: In moving that this Bill be read a second time, I may say that its object is to enable the South Brisbane Council to borrow £10,000, increasing their liability from £150,000 to £160,000. I believe the money is to be applied to wharfage purposes. The provision in the existing Act for the expenditure of £5,000 on wharfage purposes is repealed, and it is proposed to spend £13,000 on wharfage purposes and £2,000 on office accommodation in connection with the wharfage scheme. I have the greatest pleasure in seeing the progress of the port of Brisbane. I think it must be a matter of gratification to every hon. member to see the large ships coming up to South Brisbane. I saw a statement in one of the papers with respect to the much-vaunted advantages possessed by Sydney. After all, Sydney has not such a great depth of water and is not so capable of defence as Brisbane; and generally speaking, if we go on as we are doing, we shall have a port hardly second to Sydney. I think it is a very good thing to see those large ships in the river. One day we had seven of them crowding that part of the river, and I hope that when the improvements are finished in connection with cutting away the points we shall have more. I rejoice to know that Brisbane is now taking an independent place, and is no longer the humble handmaid of either Sydney or Melbourne, but is taking her place as one of the great ports of Australia. I move that the Bill be now read a second time.

Question put and passed.

HON. A. H. BARLOW: I move that the President do now leave the chair and the House go into Committee to consider this Bill in detail.

HON. F. MCDONNELL: Is it in order for the hon. gentleman to take the Committee stage without the leave of the House?

HON. A. H. BARLOW: Will I ask permission now?

The PRESIDENT: There is no necessity for the hon. gentleman to ask permission; it is provided for by the Standing Orders. It is entirely for the Council to decide whether or not it will proceed with the consideration of the Bill in Committee; and it is quite in order for the Minister to move the motion without notice and without leave.

Question put and passed.

COMMITTEE.

Clauses 1 to 3, inclusive, put and passed.

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

TOWNSVILLE HARBOUR BOARD ACTS AMENDMENT BILL.

SECOND READING.

HON. A. H. BARLOW said: This is a Bill to increase the borrowing powers of the Townsville Harbour Board by £100,000. The estimated revenue for this year is [4.30 p.m.] £40,000, and their present interest and redemption charge is £13,300. The purposes to which this money is to be applied are: The purchase of a dredge capable of dredging to a depth of 38 feet—as far as I know, a dredge costs from £40,000 to £50,000—buying three barges, and paying for dredging the harbour; and by and by buying a second large dredge. I believe the Bill has the approval of the people of Townsville. I beg to move that the Bill be now read a second time.

Question put and passed.

COMMITTEE.

Clauses 1 and 2 put and passed.

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

ADJOURNMENT.

HON. A. H. BARLOW: In moving that the Council do now adjourn, I may say that we shall go on with the second reading of the Local Authorities Bill to-morrow; but the main object of meeting to-morrow is to get the Land Bill—the great Bill of the session—on the table. I would respectfully request hon. members to make a quorum at half past 3 o'clock. We had rather a narrow escape from a "count out" this afternoon. I beg to move that the Council do now adjourn.

Question put and passed.

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